Reg. No. M. 1175.

The Mysore Gazette

(PUBLISHED BY AUTHORITY)

Vol. 85] BANGALORE, THURSDAY, FEB. 23, 1950 [No. 8

PART IV

Section 1-A

BILLS INTRODUCED IN THE CENTRAL LEGISLATURE WHICH IF ENACTED WILL APPLY TO MYSORE AND THE REPORTS OF SELECT COMMITTEES, IF ANY, THEREON.

NOTIFICATION.

No. L.D. 1029—Legis. 30-49-6, dated Bangalore, 7th February 1950.

Ordered that the accompanying Road Transport Corporations Bill, 1949 (82 of 1949), the Army Bill, 1949 (83 of 1949), The Emblems and Names (Prevention of Improper Use) Bill, 1949 (84 of 1949) and the Air Force Bill, 1949 (85 of 1949) published in the *Gazette of India* dated December 31, 1949, be republished in the *Mysore Gazette* for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

GOVERNMENT OF INDIA

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)

The following Bills were introduced in the Constituent Assembly of India (Legislative), on the 21st December, 1949 :—

A. BILL* No. 82 OF 1949.

A Bill to provide for the incorporation and regulation of Road Transport Corporations.

WHEREAS it is expedient to provide for the incorporation and regulation of Road Transport Corporations for the promotion of a co-ordinated system of road transport in India, and to make provisions for the purposes connected therewith ;

* The Governor-General has, in pursuance of sub-section (3) of section 37 of the Government of India Act, 1935, recommended to the Constituent Assembly of India (Legislative) the consideration of the Bill.

It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. *Short title, extent and commencement.*—(*1*) This Act may be called the Road Transport Corporations Act, 1949.

(*2*) It extends to all the Provinces of India except the Province of Delhi, and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt with in this Act.

(*3*) It shall come into force in a Province or an Acceding State on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf for such Province or Acceding State, and different dates may be appointed for different Provinces or Acceding States.

2. *Definitions.*—(*1*) In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "ancillary service" means any subsidiary service which provides amenities or facilities to persons making use of any road transport service of a Corporation ;

(*b*) "Corporation" means a Road Transport Corporation established under section 3 ;

(*c*) "extended area" means any area or route to which the operation of any road transport service of a Corporation has been extended in the manner provided in section 19 ;

(*d*) "prescribed" means prescribed by rules made under this Act ;

(*e*) "road transport service" means a service carrying passengers or goods or both by road in vehicles for hire or reward ;

(*f*) "vehicle" means any mechanically propelled vehicle, used or capable of being used for the purpose of road transport, and includes a tramcar, a trolly-vehicle and a trailer ;

(*g*) words and expressions used but not defined in this Act and defined in the Motor Vehicles Act, 1939 (IV of 1939), have the meanings assigned to them in that Act.

(*2*) For the purposes of this Act, unless there is anything repugnant in the subject or context,—

(*a*) any references to the Provinces, the Provinces of India, or to any Province of India shall be construed as including a reference to the Acceding States ;

(*b*) any reference to the Provincial Government shall be construed as including a reference to the Government of an Acceding State ;

(*c*) any reference to the official Gazette shall be construed as including a reference to the official Gazette or other similar publication of the Acceding States ; and

(*d*) any reference to any enactment in force in the Provinces of India but not in force in an Acceding State shall be construed as including a reference to the corresponding law in force in that State.

CHAPTER II.

ROAD TRANSPORT CORPORATIONS.

3. *Establishment of Road Transport Corporations in the Provinces.*—The Provincial Government, having regard to—

(*a*) the advantages offered to the public, trade and industry by the development of road transport ;

(*b*) the desirability of co-ordinating any form of road transport with any other form of transport;

(*c*) the desirability of extending and improving the facilities for road transport in any area in such manner as to provide most efficiently and as economically as possible for the needs thereof and of preventing uneconomic competition among any forms of transport;

may, by notification in the official Gazette, establish a Road Transport Corporation for the whole or any part of the Province under such name as may be specified in the notification.

4. *Incorporation.*—Every Corporation shall be a body corporate by the name notified under section 3 having perpetual succession and a common seal, and shall by the said name sue and be sued.

5. *Constitution of Road Transport Corporations.*—(*1*) Subject to rules made under this Act, a Corporation shall consist of a Chairman and such number of other members as the Provincial Government may think fit to appoint.

(*2*) The Provincial Government may, if it so thinks fit, appoint one of the other members as the Vice-Chairman of the Corporation.

(*3*) Rules made under this Act shall provide for the representation both of the Central Government and of the Provincial Government concerned in the Corporation in such proportion as may be agreed to by both the Governments and of nomination by each Government of its own representatives therein.

(*4*) The term of office of, and the manner of filling casual vacancies among, members of the Corporation shall be such as may be prescribed.

6. *Disqualifications for being chosen as, or for being, a member of a Corporation.*—A person shall be disqualified for being chosen as, or for being, a member of a Corporation—

(*a*) if he is found to be a lunatic or a person of unsound mind; or

(*b*) if he has been adjudged insolvent; or

(*c*) if he has been convicted of an offence involving moral turpitude; or

(*d*) if he has, directly or indirectly, any interest in any subsisting contract made with, or in any work being done for, the Corporation except as a shareholder (other than a director) in an incorporated company, provided that where he is a shareholder he shall disclose to the Provincial Government the nature and extent of shares held by him in such company; or

(*e*) if he has any financial interest in any other road transport undertaking.

7. *Resignation of office by the Chairman or a member.*—The Chairman or any other member of a Corporation may resign his office by giving notice in writing to the Provincial Government and, on such resignation being accepted by that Government, shall be deemed to have vacated his office.

8. *Removal of Chairman and members from office.*—The Provincial Government may remove from office the Chairman or any other member of the Corporation who—

(*a*) is or becomes subject to any of the disqualifications mentioned in section 6; or

(*b*) in the opinion of the Provincial Government, has failed, or is unable, to carry out his duties so as to render his removal necessary; or

(*c*) is convicted of an offence involving moral turpitude; or

(*d*) without excuse sufficient in the opinion of the Provincial Government, is absent without the leave of the Corporation from more than four consecutive meetings of the Corporation.

9. *Vacancies amongst members or defect in the constitution not to invalidate acts or proceedings of a Corporation.*—No act or proceeding of a Corporation shall be invalid by reason only of the existence of any vacancy amongst its members or any defect in the constitution thereof.

10. *Temporary association of persons with a Corporation for particular purposes.*—(*1*) A Corporation may associate with itself for any particular purpose in such manner as may be determined by regulations made under this Act any persons whose assistance or advice it may desire.

(*2*) A person associated with it by the Corporation under sub-section (*1*) for any purpose shall have a right to take part in the discussions of the Corporation relevant to that purpose, but shall not have a right to vote at a meeting of the Corporation, and shall not be a member for any other purpose.

11. *Meetings of Corporations.*—(*1*) A Corporation shall meet at such times and places and shall, subject to the provisions of sub-sections (*2*) and (*3*) observe such rules of procedure in regard to transaction of business at its meetings as may be provided by regulations made under this Act.

(*2*) The person to preside at a meeting of a Corporation shall be the Chairman thereof, or in his absence from any meeting, the Vice-Chairman, if any, or in the absence of both the Chairman and the Vice-Chairman, such member as may be chosen by the members present from among themselves to preside.

(*3*) All questions at a meeting of a Corporation shall be decided by a majority of votes of the members present, and in the case of equality of votes, the Chairman or, in his absence, any other person presiding shall have a second or casting vote.

12. *Authentication of orders and other instruments of a Corporation.*—All orders and decisions of a Corporation shall be authenticated by the signature of the Chairman or any other member authorised by the Corporation in this behalf, and all other instruments issued by a Corporation shall be authenticated by the signature of the Chief Executive Officer or any other officer of the Corporation authorised in like manner in this behalf.

13. *Officers and servants of the Corporation.*—(*1*) Every Corporation shall have a Chief Executive Officer and a Chief Accounts Officer appointed by the Provincial Government.

(*2*) A Corporation may appoint such other officers and servants as it considers necessary for the efficient performance of its functions.

(*3*) The conditions of appointment and service and the scales of pay of the officers and servants of a Corporation shall—

(*a*) as respects the Chief Executive Officer and the Chief Accounts Officer be such as may be prescribed, and

(*b*) as respects the other officers and servants be such as may, subject to the provisions of section 33, be determined by regulations made under this Act.

14. *The Chief Executive Officer and the Chief Accounts Officer.*—(*1*) The Chief Executive Officer shall be the executive head of the Corporation and all other officers and servants of the Corporation shall be subordinate to him.

(*2*) The Chief Accounts Officer shall have the right to record his views on every proposal involving expenditure from the fund of the Corporation prior to the consideration of such proposal by the Corporation.

15. *General disqualification of all officers and servants.*—No person who has directly or indirectly, by himself or his partner or agent, any share or interest in any contract, by or on behalf of a Corporation, or in any other road transport undertaking shall become or remain an officer or servant of the Corporation.

16. *Appointment of Advisory Council.*—On the recommendation of a Corporation, the Provincial Government may, by notification in the official Gazette, constitute an Advisory Council consisting of such number of persons, on such terms, and for the purpose of advising the Corporation on such matters, as may be specified in that notification.

CHAPTER III.

Powers and Duties of Corporation.

17. *General duty of Corporation.*—Subject to the provisions of any law for the time being in force in a Province, it shall be the general duty of a Corporation so to exercise its powers as progressively to provide, or secure or promote the provision of, an efficient, adequate, economical and properly co-ordinated system of road transport services in the Province or part of the Province for which it is established and in any extended area :

Provided that nothing in this section shall be construed as imposing on a Corporation, either directly or indirectly, any form of duty or liability enforceable by proceedings before any Court or tribunal to which it would not otherwise be subject.

18. *Powers of Corporation.*—(*1*) Subject to the provisions of any law for the time being in force in a Province and of this Act, a Corporation shall have power—

(*a*) to operate road transport services in the Province and in any extended area ;

(*b*) to provide for any ancillary service ;

(*c*) to provide for its employees suitable conditions of service including establishment of Provident Fund, living accommodation, places for rest and recreation and other amenities.

(*2*) Subject to the provisions of this Act, the powers conferred by sub-section (*1*) shall include power—

(*a*) to manufacture, purchase, maintain and repair rolling stock, vehicles, appliances, plant, equipment or any other thing required for the purpose of any of the activities of the Corporation referred to in sub-section (*1*).

Explanation.—In this clause, the expression " manufacture " does not include the construction of the complete unit of a motor vehicle except for purposes of experiment or research ;

(*b*) to acquire and hold such property, both movable and immovable as the Corporation may deem necessary for the purpose of any of the said activities, and to lease, sell or otherwise transfer any property held by it ;

(*c*) to prepare schemes for the acquisition of, and to acquire, either by agreement or compulsorily in accordance with the law of acquisition for the time being in force in the Province concerned and with such procedure as may be prescribed, whether absolutely or for any period, the whole or any part of any undertaking of any other person to the extent to which the activities thereof consist of the operation of road transport services in that Province or in any extended area ;

(*d*) to purchase by agreement or to take on lease or under any form of tenancy any land and to erect thereon such buildings as may be necessary for the purpose of carrying on its undertaking ;

(*e*) to authorise the disposal of scrap vehicles, old tyres, used oils, or any other stores of scrap value ;

(*f*) to enter into and perform all such contracts as may be necessary for the performance of its duties and the exercise of its powers under the Act ;

(*g*) to purchase vehicles of such type as may be suitable for use in the road transport services operated by the Corporation ;

(*h*) to purchase or otherwise secure by agreement vehicles, garages, sheds, office buildings, depots, land, workshops, equipment, tools, accessories to and spare parts for vehicles, or any other article owned or possessed by the owner of any other undertaking for use thereof by the Corporation for the purposes of its undertaking ;

(*i*) to do anything for the purpose of advancing the skill of persons employed by the Corporation or the efficiency of the equipment of the Corporation or of the manner in which that equipment is operated, including the provision by the Corporation, and the assistance by the Corporation to others for the provision of facilities for training, education and research ;

(*j*) to enter into and carry out agreements with any person carrying on business as a carrier of passengers or goods providing for the carriage of passengers or goods on behalf of the Corporation by that other person at a through fare or freight ;

(*k*) with the prior approval of the Provincial Government to do all other things to facilitate the proper carrying on of the business of the Corporation.

(*3*) Nothing in this section shall be construed as authorising a Corporation, except with the previous permission of the Provincial Government—

(*i*) to manufacture or maintain anything which is not required directly or indirectly for use for the purpose of the undertaking of the Corporation or to repair, store, or provide any service for, any vehicle which does not belong to the Corporation or is not used directly or indirectly for the purpose of its undertaking ;

(*ii*) to purchase any vehicle for the purpose of sale to another person ;

(*iii*) to sell or supply to any person lubricants, spare parts, or equipment for or accessories to, vehicles ;

(*iv*) to let vehicles on hire for the carriage of passengers or goods except as expressly provided by or under this Act.

(*4*) Except as otherwise provided by this Act nothing in the foregoing provisions shall be construed as authorising the Corporation to disregard any law for the time being in force.

(*5*) The provisions of this section shall not be construed as limiting any power of a Corporation conferred by or under any subsequent provision of this Act.

19. *Extension of the operation of the road transport service of a Corporation to areas within another Province or within an Acceding State.*—(*1*) If a Corporation considers it to be expedient in the public interest to extend the operation of any of its road transport services to any route or area situated within another Province, it may, with the permission of the Provincial Government, negotiate with the Government of that Province regarding the proposed extension.

(*2*) If the Government of the other Province approves the proposed extension, the Corporation shall prepare a scheme for the purpose and forward the same to that Government for its consent, and after such consent has been received, the Corporation may, with the previous approval of the Provincial Government, sanction the scheme.

(*3*) After the scheme has been so sanctioned, it shall be competent for the Corporation to extend the operation of its road transport service to such route

or area and when the operation of such service is so extended, the Corporation shall operate the service on that route or in that area subject to the provisions of any law in force in the Province within which such route or area is situated.

(*4*) The Corporation may, from time to time, alter or extend the scheme sanctioned under sub-section (*2*) by a supplementary scheme prepared and sanctioned in the manner provided in the foregoing provisions of this section.

20. *Carriage of mails.*—Notwithstanding anything contained in the Motor Vehicles Act, 1939 (IV of 1939), a Corporation shall, if so required by the Central Government, carry mails at such rates and on such terms and conditions as may be specified in this behalf by the Provincial Government in consultation with the Central Government.

CHAPTER IV.

Finance, Accounts and Audit.

21. *General principle of Corporation's finance.*—It shall be the general principle of a Corporation that in carrying on its undertaking it shall act on business principles.

22. *Capital of the Corporation.*—(*1*) The Central Government and the Provincial Government may provide to a Corporation established by the Provincial Government, in such proportion as may be agreed to by both the Governments, any capital that may be required by the Corporation for the purpose of carrying on the undertaking or for purposes connected therewith on such terms and conditions, not inconsistent with the provisions of this Act, as the Provincial Government may, with the previous approval of the Central Government, determine.

(*2*) Where the capital of a Corporation is not provided under sub-section (*1*), the Corporation may raise, by the issue of shares, such capital as may be authorised in this behalf by the Provincial Government.

(*3*) The authorised capital of the Corporation shall be divided into such number of shares as the Provincial Government may determine; and the number of shares which shall be subscribed by the Provincial Government, the Central Government and other parties shall also be determined by the Provincial Government in consultation with the Central Government.

(*4*) The allotment of shares to other parties mentioned in sub-section (*3*) shall be made by the Corporation in such manner as may be prescribed.

(*5*) The shares of the Corporation shall not be transferable except in accordance with the rules made under this Act.

(*6*) The Corporation may at any time, with the previous approval of the Provincial Government, redeem the shares issued to the other parties under sub-section (*4*) in such manner as may be prescribed.

23. *Additional capital of the Corporation.*—If, after the issue of shares under section 22, a Corporation requires any further capital, the Corporation may, with the previous sanction of the Provincial Government, raise such additional capital by the issue of new shares and the provisions of sub-sections (*2*), (*3*), (*4*), (*5*), and (*6*) of the said section shall apply to such shares.

24. *Guarantee by the Provincial Government.*—The shares of a Corporation shall be guaranteed by the Provincial Government as to the payment of the principal and the payment of the annual dividend at such minimum rate as may be fixed by the Provincial Government by notification published in the official Gazette at the time of issuing the shares.

25. *Borrowing powers.*—A Corporation may, with the previous approval of the Provincial Government, borrow money in the open market or otherwise for the purpose of raising its working capital.

26. *Fund of the Corporation.*—(*1*) Every Corporation shall have its own fund and all receipts of the Corporation shall be carried thereto and all payments by the Corporation shall be made therefrom.

(*2*) Except as otherwise directed by the Provincial Government, all moneys belonging to that fund shall be deposited in the Reserve Bank of India or with the agents of the Reserve Bank of India, or invested in such securities as may be approved by the Provincial Government.

27. *Payment of interest and dividend.*—(*1*) Where the capital of a Corporation is provided by the Central Government and the Provincial Government under sub-section (*1*) of section 22, the Corporation shall pay interest on such capital at such rate as may, from time to time, be fixed by the Provincial Government in consultation with the Central Government and such interest shall be deemed to be a part of the expenditure of the Corporation.

(*2*) Where the Corporation raises its capital by issue of shares, it shall pay dividend on such shares on such rate as may, from time to time, be fixed by the Corporation, subject to any general limitations which may have been imposed by the Provincial Government in consultation with the Central Government, and such dividend shall be deemed to be a part of the expenditure of the Corporation.

28. *Provision for depreciation and reserve and other funds.*—(*1*) A Corporation shall make such provisions for depreciation and for reserve and other funds as the Provincial Government may, from time to time, direct.

(*2*) The management of the said funds, the sums to be carried from time to time to the credit thereof and the application of the moneys comprised therein shall be determined by the Corporation :

Provided that no fund shall be utilised for any purpose other than for which it was created without the previous approval of the Provincial Government.

29. *Disposal of net profits.*—After making provision for payment of interest and dividend under section 27 and for depreciation, reserve and other funds under section 28, a Corporation may utilise its net annual profits for the provision of amenities to the passengers using the road transport services, welfare of labour employed by the Corporation, road development, and for such other purposes as may be prescribed with the previous approval of the Central Government.

30. *Power of the Corporation to spend.*—A Corporation shall have power to spend such sums as it thinks fit on objects authorised under this Act or under any other law and such sums shall be treated as common expenditure payable out of the fund of the Corporation.

31. *Budget.*—(*1*) Every Corporation shall, by such date in each year as may be prescribed, prepare and submit to the Provincial Government for approval a budget for the next financial year showing the estimated receipts and expenditure during that financial year in such form as may be prescribed.

(*2*) Subject to the provisions of sub-sections (*3*) and (*4*), no sum shall be expended by or on behalf of a Corporation unless the expenditure of the same is covered by a current budget grant approved by the Provincial Government.

(3) A Corporation may sanction any re-appropriation within the grant from one head of the expenditure to another or from a provision made for one scheme to that in respect of another, subject to the condition that the aggregate budget grant is not exceeded.

(4) A Corporation may, within such limits and subject to such conditions as may be prescribed, incur expenditure in excess of the limit provided in the budget approved by the Provincial Government under any head of expenditure or in connection with any particular scheme.

32. *Accounts and audit.*—(1) Every Corporation shall cause to be maintained in such books of account and other books in relation to its accounts in such form and in such manner as may be prescribed.

(2) The accounts of a Corporation shall be audited by the auditor appointed by the Provincial Government at such times and in such manner as may be prescribed.

(3) As soon as the accounts of a Corporation have been audited, the Corporation shall send a copy thereof together with a copy of the report of the auditor thereon to the Central Government and the Provincial Government.

CHAPTER V.

MISCELLANEOUS.

33. *Directions by the Provincial Government.*—(1) The Provincial Government may, after consultation with a Corporation established by such Government, give to the Corporation general instructions to be followed by the Corporation, and such instructions may include directions relating to the conditions of service and training of its employees, wages to be paid to its workers, reserves to be maintained by it and disposal of its profits or stocks.

(2) In the exercise of its powers and performance of its duties under this Act, the Corporation shall not depart from any general instructions issued under sub-section (1) except with the previous permission of the Provincial Government.

34. *Returns and Reports.*—(1) Every Corporation shall furnish to the Provincial Government such returns, statistics, accounts and other information with respect to its property or activities or in regard to any proposed scheme as the Provincial Government may from time to time require.

(2) Without prejudice to the provisions of sub-section (1), a Corporation shall, as soon as possible after the end of each financial year, submit to the Central and the Provincial Governments a report on the exercise and performance by it of its powers and duties under this Act and under any other law during that year and on its policy and programme.

35. *Power to order inquiries.*—(1) The Provincial Government, with a view to satisfy itself that the powers and duties of a Corporation established by that Government are being exercised and performed properly, may at any time, with the previous approval of the Central Government, appoint any officer or officers to make inquiries into all or any of the activities of the Corporation and to report to the Provincial Government the result of such inquiries.

(2) The Corporation shall give to the officer or officers so appointed all facilities for the proper conduct of the inquiries and shall produce before, or furnish to, the officer or officers any document, account or information in the possession of the Corporation which such officer or officers demand for the purposes of the inquiries.

36. *Power to control a part of the undertaking of a Corporation.*—(*1*) If no receipt of the report of any inquiry held under section 35 or otherwise, the Provincial Government is satisfied that it is necessary so to do in the public interest, the Provincial Government may, with the previous approval of the Central Government, by notification in the official Gazette, authorise any person to take over from a Corporation established by that Government, and so long as that notification is in force, to administer in accordance with such directions as may be issued from time to time by the Provincial Government such part of the undertaking, of the Corporation as may be specified in the notification, and any person so authorised may, for the purpose of so administering the said part of the undertaking, exercise all or any of the powers of the Corporation or of any officer of the Corporation under this Act or under any other law, issue such directions as he thinks fit to the officers or servants of the Corporation and employ any outside agency.

(*2*) The Provincial Government may by such notification direct that all charges and expenses incurred by the person so authorised together with such remuneration as the Provincial Government may allow from time to time to such person shall be paid within such time as may be fixed by the Provincial Government from the fund of the Corporation, and if the expenses are not so paid, the Provincial Government may make an order directing the person having the custody of that fund to pay to the person so authorised such expenses in priority to any other charges against such fund and he shall, so far as the funds to the credit of the Corporation admit, comply with the order of the Provincial Government.

37. *Power to supersede a Corporation.*—(*1*) If the Provincial Government is of opinion that a Corporation established by that Government is unable to perform, or has persistently made default in the performance of the duties imposed on it by or under the provisions of this Act or of any other law, or has exceeded or abused its powers, the Provincial Government may, with the previous approval of the Central Government, by notification in the official Gazette, supersede the Corporation for such period as may be specified in the notification :

Provided that before issuing a notification under this sub-section the Provincial Government shall give a reasonable time to the Corporation to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Corporation.

(*2*) Upon the publication of a notification under sub-section (*1*) superseding a Corporation, the following consequences shall ensue :—

(*a*) all the members of the Corporation shall, as from the date of supersession, vacate their officers as such members ;

(*b*) all the powers and duties which may, by or under the provisions of this Act or of any other law, be exercised or performed by or on behalf of the Corporation shall, during the period of supersession, be exercised and performed by such person or persons as the Provincial Government may direct ;

(*c*) all property vested in the Corporation shall, during the period of supersession, vest in the Provincial Government.

(*3*) On the expiration of the period of supersession specified in the notification issued under sub-section (*1*), the Provincial Government may—

(*a*) extend the period of supersession for such further term as it may consider necessary ; or

(*b*) reconstitute the Corporation in the manner provided in section 5 and in such case any persons who vacated their offices under clause (*a*) of sub-section (*2*) shall not be deemed disqualified for nomination.

38. *Liquidation of a Corporation.*—(*1*) No provision of any law relating to the winding up of companies or corporations shall apply to a Corporation, and a Corporation shall not be placed in liquidation save by order made, with the previous approval of the Central Government, by the Provincial Government by which it is established and in such manner as the Provincial Government may direct.

(*2*) In the event of a Corporation being placed in liquidation, the assets of the Corporation, after meeting the liabilities, if any, shall be divided among the Central and the Provincial Government and such other parties, if any, as may have subscribed to the capital in proportion to the contribution made by each of them to the total capital of the Corporation.

39. *Compensation for acquisition of road transport undertakings.*—Whenever a Corporation acquires under this Act the whole or any part of any undertaking, there shall be paid by the Corporation compensation the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say,—

(*a*) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement ;

(*b*) where no such agreement can be reached, the amount shall, subject to rules made under this Act, be determined by an arbitral tribunal consisting of one nominee of the Corporation, one nominee of the person to be compensated, and one nominee of the Provincial Government who shall be the chairman of the tribunal ;

(*c*) an appeal shall lie to the District Judge against the decision of the tribunal and the order of the District Judge on such appeal shall be final.

40. *Application of the provisions of the Motor Vehicles Act, 1939, or any rules made thereunder, to vehicles and employees of a Corporation.*—The Motor Vehicles Act, 1939 (in this section referred to as the said Act) shall have effect subject to the following provisions, namely :—

(*a*) The Provincial Government may, by notification in the official Gazette, authorise, subject to such terms and conditions, if any, as it may think fit to impose, any person to exercise and perform to the exclusion of the Licensing Authority, Registering Authority, Motor Vehicles Inspector, Traffic Inspector, Regional Transport Authority or Provincial Transport Authority, as the case may be, and without following the procedure laid down for the purpose in the said Act, all or such of the powers, functions and duties of any Licensing Authority, any Registering Authority, any Motor Vehicles Inspector, any Traffic Inspector, Regional Transport Authority or the Provincial Transport Authority under the said Act or under any rules made thereunder in relation to the motor vehicles of a Corporation established by that Government and the drivers and conductors of those vehicles, as may be specified in the notification.

(*b*) The Provincial Government may, if it so thinks necessary, by order cancel, suspend or vary the conditions of, any state carriage, contract carriage or public carriers' permit which has been granted or countersigned under Chapter IV of the said Act by any Regional Transport Authority in the Province or by the Provincial Transport Authority and is valid within the whole or any part of the Province, and any order so passed shall be final.

(*c*) If the Provincial Government, by order in writing, so directs, any Regional Transport Authority within the Province, or the Provincial Transport Authority, shall not grant, countersign or renew any permit under Chapter IV of the said Act other than a private carrier's permit.

(*d*) The Provincial Government may, by order in writing, exempt the motor vehicles of a Corporation established by that Government or its employees from the provisions of the said Act or of any rules made thereunder relating to the carrying of certificates of registration and fitness and from all or any of the provisions of Chapter IV of the said Act.

41. *Members, officers and servants of a Corporation to be public servants.*— All members of a Corporation, and all officers and servants of a Corporation, whether appointed by the Provincial Government or the Corporation, shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act or of any other law, to be public servants within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

42. *Power to make rules.*— (*1*) The Provincial Government may, by notification in the official Gazette, make rules to give effect to the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) the conditions and manner of appointment of members of a Corporation, the representation in the Corporation of the Central and the Provincial Government and generally all matters relating to the constitution of the Corporation ;

(*b*) the term of office of, the manner of filling casual vacancies among, members of the Corporation ;

(*c*) the conditions of appointment and service and the scales of pay of the Chief Executive Officer and the Chief Accounts Officer of the Corporation ;

(*d*) the number and term of office of, the allowances to be paid to, the procedure to be followed by, and the manner of filling casual vacancies among, members of the Advisory Council ;

(*e*) the procedure for compulsory acquisition by the Corporation of the whole or any part of the undertaking ;

(*f*) the payment of due compensation to owners of road transport services the operation of which is acquired by the Corporation ;

(*g*) the manner in which the shares of the Corporation shall be allotted, transferred or redeemed ;

(*h*) the manner in which the net profits of the Corporation shall be utilised ;

(*i*) the date by which, and the form in which, the budget shall be prepared and submitted in each year under sub-section (*1*) of section 31 ;

(*j*) the forms and the manner in which the accounts of the Corporation shall be maintained ;

(*k*) the time at which, and the manner in which, the accounts of the Corporation shall be audited ;

(*l*) the form in which the returns, statistics or reports shall be submitted under section 34 ;

(*m*) the procedure to be followed in determination of compensation by an arbitral tribunal under section 39 ;

(*n*) any other matter which has to be, or may be, prescribed.

43. *Power to make regulations.*—(*1*) A Corporation may, with the previous sanction of the Provincial Government, make regulations, not inconsistent with this Act and the rules made thereunder, for the administration of the affairs of the Corporation.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

(*a*) the manner in which, and the purposes for which, persons may be associated with the Corporation under section 10 ;

(*b*) the time and place of meetings of the Corporation and the procedure to be followed in regard to transaction of business at such meetings ;

(*c*) the conditions of appointment and service and the scales of pay of officers and servants of the Corporation other than the Chief Executive Officer and the Chief Accounts Officer.

44. *Repeal of Act XXXII of 1948.*—The Road Transport Corporation Act, 1948 (XXXII of 1948) is hereby repealed.

STATEMENT OF OBJECTS AND REASONS

The Road Transport Corporations Act, 1948 (XXXII of 1948) was enacted with a view to enable the Provincial Governments, who may so desire, to establish Road Transport Corporations. This Act has been found defective because the provisions of sections 3(*2*), 4 and 5 of the Act, in so far as they require certain provisions to be made by a Provincial law, are *ultra vires* of the Government of India Act, 1935, as adapted. Under the latter Act, the power to legislate in respect of trade and commerce is given to the Provincial Legislatures and the power to legislate for the incorporation of trading corporations is given to the Central Legislature. The creation of statutory transport corporations has been held as amounting to incorporation of trading corporations and, as such, *ultra vires* of the Provincial Legislature. In order to remove the above-mentioned legal flaw, it is proposed to replace the existing Act, by a comprehensive Act, enabling such of the Provincial Governments, who may so desire, to set up transport corporations with the object of providing efficient, adequate, economical and properly co-ordinated system of road transport services.

K. SANTHANAM.

NEW DELHI ;
The 13th December, 1949.

A. BILL NO. 83 OF 1949

A Bill to consolidate and amend the law relating to the government of the regular Army.

WHEREAS it is expedient to consolidate and amend the law relating to the government of the regular Army ;

It is hereby enacted as follows :—

CHAPTER I

PRELIMINARY

1. *Short title and commencement.*—(*1*) This Act may be called the Army Act, 1949.

(*2*) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

2. *Persons subject to this Act.*—(*1*) The following persons shall be subject to this Act wherever they may be, namely :—

(*a*) officers, junior commissioned officers and warrant officers of the regular Army ;

(*b*) persons enrolled under this Act,

(*c*) persons belonging to the Indian Reserve Forces ;

(*d*) persons belonging to the Indian Supplementary Reserve Forces when called out for service or when carrying out the annual test ;

(*e*) officers of the Territorial Army, when doing duty as such officers, and enrolled persons of the said Army when called out or embodied or attached to any regular forces, subject to such adaptations and modifications as may be made in the application of this Act to such persons under sub-section (*1*) of section 9 of the Territorial Army Act, 1948 (LVI of 1948) ;

(*f*) persons holding commissions in the Army in India Reserve of Officers, when ordered on any duty or service for which they are liable as members of such reserve forces ;

(*g*) officers appointed to the Indian Regular Reserve of Officers, when ordered on any duty or service for which they are liable as members of such reserve forces ;

(*h*) persons belonging to the land forces of an Acceding State, when such persons are attached to any body of the regular Army for service, or when the whole or a part of the said forces is acting with any body of the regular Army or is placed at the disposal of the Central Government in pursuance of a notification under section 5 ;

(*i*) persons not otherwise subject to military law who, on active service, in camp, on the march or at any frontier post specified by the Central Government by notification in this behalf, are employed by, or are in the service of, or are followers of, or accompany any portion of, the regular Army.

(*2*) Every person subject to this Act shall remain so subject until duly retired, discharged, released, removed, dismissed or cashiered from the service.

3. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(*i*) "active service", as applied to a person subject to this Act, means the time during which such person—

(*a*) is attached to, or forms part of, a force which is engaged in operations against an enemy, or

(*b*) is engaged in military operations in, or is on the line of march to, a country or place wholly or partly occupied by an enemy, or

(*c*) is in military occupation of a foreign country ;

(*ii*) "civil offence" means an offence which is triable by a criminal court ;

(*iii*) "Commander-in-Chief" means the officer commanding-in-chief the regular Army ;

(*iv*) "commanding officer", when used in any provision of this Act, with reference to any separate portion of the regular Army or to any department thereof, means the officer whose duty it is under the regulations

of the regular Army, or in the absence of any such regulations, by the custom of the service, to discharge with respect to that portion of the regular Army or that department, as the case may be, the functions of a commanding officer in regard to matters of the description referred to in that provision ;

(*v*) " corps " means any separate body of persons subject to this Act, which is prescribed as a crops for the purposes of all or any of the provisions of this Act ;

(*vi*) " court-martial " means a court-martial held under this Act ;

(*vii*) " criminal court " means a court of ordinary criminal justice in any part of India, other than the State of Jammu and Kashmir ;

(*viii*) " department " includes any division or branch of a department ;

(*ix*) " enemy " includes all armed mutineers, armed rebels, armed rioters, pirates and any person in arms against whom it is the duty of any person subject to military law to act ;

(*x*) " the Forces " means the regular Army, Navy and Air Force or any part of any one or more of them ;

(*xi*) " junior commissioned officer " means a person commissioned, gazetted or in pay as a junior commissioned officer in the regular Army and includes—

(*a*) a person holding a Viceroy's commission granted before the 15th day of August, 1947, or a junior commission in the Indian Land Forces or in the Indian Reserve Forces ; and

(*b*) a person holding a Viceroy's commission granted before the 15th day of August, 1947, or a junior commission in the Indian Supplementary Reserve Forces, or a junior commission in the Territorial Army, or a junior or equivalent commission in the land forces of an Acceding State, who is for the time being subject to this Act ;

(*xii*) " military custody " means the arrest or confinement of a person, according to the usages of the service and includes naval or air force custody ;

(*xiii*) " military reward " includes any gratuity or annuity for long service or good conduct, any good conduct pay, good service pay or pension, and any other military pecuniary reward ;

(*xiv*) " non-commissioned officer " means a non-commissioned officer or an acting non-commissioned officer of the regular Army or of the Indian Reserve Forces, and includes a non-commissioned officer or acting non-commissioned officer of the Indian Supplementary Reserve Forces or of the Territorial Army or of the land forces of an Acceding State, who is for the time being subject to this Act ;

(*xv*) " notification " means a notification published in the official Gazette ;

(*xvi*) " offence " means any act or omission punishable under this Act and includes a civil offence as hereinbefore defined ;

(*xvii*) " officer " means a person commissioned, gazetted or in pay as an officer in the regular Army, and includes—

(*a*) an officer holding His Majesty's commission in the Indian Land Forces ;

(*b*) a citizen of India holding His Majesty's commission in His Majesty's Land Forces ;

(*c*) an officer of the Indian Reserve Forces ;

(*d*) an officer holding a commission in the Territorial Army granted by the Governor-General with designation of rank corresponding to that of an officer of the regular Army who is for the time being subject to this Act;

(*e*) an officer of the Army in India Reserve of Officers who is for the time being subject to this Act;

(*f*) an officer of the Indian Regular Reserve of Officers who is for the time being subject to this Act;

(*g*) an officer of the land forces of any Acceding State who is for the time being subject to this Act;

(*h*) in relation to a person subject to this Act when serving under such conditions as may be prescribed, an officer of the Navy or Air Force;

but does not include a junior commissioned officer, warrant officer, petty officer or non-commissioned officer;

(*xviii*) "prescribed" means prescribed by rules made under this Act;

(*xix*) "provost-marshal" includes any of his deputies or assistants or any other person legally exercising authority under him or on his behalf;

(*xx*) "regular Army" means officers, junior commissioned officers, warrant officers, non-commissioned officers and other enrolled persons who, by their commission, warrant, terms of enrolment or otherwise, are liable to render continuously for a term military service to the Union in any part of the world, including persons belonging to the Reserve Forces and the Territorial Army when called out on permanent service;

(*xxi*) "regulation" includes a regulation made under this Act;

(*xxii*) "superior officer", when used in relation to a person subject to this Act, includes a junior commissioned officer, warrant officer and a non-commissioned officer, and, as regards persons placed under his orders, an officer, warrant officer, petty officer and non-commissioned officer of the Navy or Air Force;

(*xxiii*) "warrant officer" means a person appointed, gazetted or in pay as a warrant officer of the regular Army or of the Indian Reserve Forces, and includes a warrant officer of the Indian Supplementary Reserve Forces or of the Territorial Army or of the land forces of an Acceding State who is for the time being subject to this Act;

(*xxiv*) all words, and expressions used but not defined in this Act and defined in the Indian Penal Code (Act XLV of 1860) shall have the meanings assigned to them in that Code.

CHAPTER II

Special Provisions for the Application of Act in certain cases

4. *Application of Act to certain forces under Central Government.*—(*1*) The Central Government may, by notification, apply all or any of the provisions of this Act to any force raised and maintained in India under the authority of that Government, and suspend the operation of any other enactment for the time being applicable to the said force.

(*2*) The provisions of this Act so applied shall have effect in respect of persons belonging to the said force as they have effect in respect of persons subject to this Act holding in the regular Army the same or equivalent rank as the aforesaid persons hold for the time being in the said force.

(3) The provisions of this Act so applied shall also have effect in respect of persons who are employed by or are in the service of or are followers of or accompany any portion of the said force as they have effect in respect of persons subject to this Act under clause (*i*) of section 2.

(4) While any of the provisions of this Act apply to the said force, the Central Government may, by notification, direct by what authority any jurisdiction, powers or duties incident to the operation of these provisions shall be exercised or performed in respect of the said force.

5. *Application of Act to forces of Acceding States.*—(1) The Central Government may, by notification, direct that any person or persons belonging to the land forces of any Acceding State shall be attached to any body of the regular Army or that the whole or a part of the said forces shall act with any body of the regular Army, or shall be placed at the disposal of the Central Government, and thereupon the persons so attached and members of the said force shall become subject to this Act.

(2) The relative rank of officers, junior commissioned officers, warrant officers and non-commissioned officers of such forces and of the regular Army shall be such as may be determined by the Central Government or by such other authority as may be prescribed.

6. *Special provision as to rank in certain cases.*—(1) The Central Government may by notification direct that any persons or class of persons subject to this Act under clause (*i*) of section 2 shall be so subject as officers, junior commissioned officers, warrant officers or non-commissioned officers and may authorise any officer to give a like direction and to cancel such direction.

(2) All persons subject to this Act other than officers, junior commissioned officers, warrant officers and non-commissioned officers shall, if they are not persons in respect of whom a notification or direction under sub-section (1) is in force, be deemed to be of a rank inferior to that of a non-commissioned officer.

7. *Commanding officer of persons subject to military law under clause (i) of section 2.*—(1) Every person subject to this Act under clause (*i*) of section 2 shall, for the purposes of this Act, be deemed to be under the commanding officer of the corps, department or detachment, if any, to which he is attached, and, if he is not so attached, under the command of any officer who may for the time being be named as his commanding officer by the officer commanding the force with which such person for the time being is serving, or any other prescribed officer, or, if no such officer is named or prescribed, under the command of the said officer commanding the force.

(2) An officer commanding a force shall not place a person subject to this Act under clause (*i*) of section 2 under the command of an officer of rank inferior to that of such person, if there is present at the place where such person is any officer of a higher rank under whose command he can be placed.

8. *Officers exercising powers in certain cases.*—(1) Whenever persons subject to this Act are serving under an officer commanding any military organisation, not in this section specifically named and being in the opinion of the Central Government not less than a brigade, that Government may prescribe the officer by whom the powers, which under this Act may be exercised by officers commanding armies, army corps, divisions and brigades, shall, as regards such persons, be exercised.

(2) The Central Government may confer such powers, either absolutely or subject to such restrictions, reservations, exceptions and conditions, as it may think fit.

9. *Power to declare persons to be on active service.*—Notwithstanding anything contained in clause (*i*) of section 3, the Central Government may, by notification, declare that any persons or class of persons subject to this Act shall, with reference to any area in which they may be serving or with reference to any provision of this Act or of any other law for the time being in force, be deemed to be on active service within the meaning of this Act.

CHAPTER III

COMMISSION, APPOINTMENT AND ENROLMENT

10. *Commission and Appointment.*—The Governor-General may grant, to such person as he thinks fit, a commission as an officer, or as a junior commissioned officer or appoint any person as a warrant officer of the regular Army.

11. *Ineligibility of aliens for enrolment.*—No person who is not a citizen of India shall, except with the consent of the Central Government signified in writing, be enrolled in the regular Army:

Provided that nothing contained in this section shall bar the enrolment of the subjects of Nepal in the regular Army.

12. *Procedure before enrolling officer.*—Upon the appearance before the prescribed enrolling officer of any person desirous of being enrolled, the enrolling officer shall read and explain to him, or cause to be read and explained to him in his presence, the conditions of the service for which he is to be enrolled; and shall put to him the questions set forth in the prescribed form of enrolment, and shall, after having cautioned him that if he makes a false answer to any such question he will be liable to punishment under this Act, record or cause to be recorded his answer to each such question.

13. *Mode of enrolment.*—If, after complying with the provisions of section 12, the enrolling officer is satisfied that the person desirous of being enrolled fully understands the questions put to him and consents to the conditions of service, and if such officer perceives no impediment, he shall sign and shall also cause such person to sign the enrolment paper, and such person shall thereupon be deemed to be enrolled.

14. *Validity of enrolment.*—Every person who has for the space of three months been in receipt of pay as a person enrolled under this Act and been borne on the rolls of any corps or department shall be deemed to have been duly enrolled, and shall not be entitled to claim his discharge on the ground of any irregularity or illegality in his enrolment or on any other ground whatsoever; and if any person, in receipt of such pay and borne on the rolls as aforesaid, claims his discharge before the expiry of three months from his enrolment, no such irregularity or illegality or other ground shall, until he is discharged in pursuance of his claim, affect his position as an enrolled person under this Act or invalidate any proceeding, act or thing taken or done prior to his discharge.

15. *Persons to be attested.*—The following persons shall be attested, namely:—

(*a*) all persons enrolled as combatants;

(*b*) all persons selected to hold a non-commissioned or acting non-commissioned rank; and

(*c*) all other enrolled persons prescribed by the Central Government.

16. *Mode of attestation.*—(*1*) When a person who is to be attested is reported fit for duty, or has completed the prescribed period of probation, an oath or affirmation shall be administered to him in the prescribed form by his

commanding officer in front of his corps or such portion thereof or such members of his department as may be present, or by any other prescribed person.

(*2*) The form of oath or affirmation prescribed under this section shall contain a promise that the person to be attested will be faithful to the Union, and that he will serve in the regular Army and go wherever he is ordered by land, sea or air, and that he will obey all commands of any officer set over him, even to the peril of his life.

(*3*) The fact of an enrolled person having taken the oath or affirmation directed by this section to be taken shall be entered on his enrolment paper, and authenticated by the signature of the officer administering the oath or affirmation.

17. *Application of this Act to persons governed by the Indian Army Act, 1911.*—Any person, holding His Majesty's commission or a Viceroy's commission or a junior commission or appointed as a warrant officer or attested or enrolled in the Indian Land Forces at the commencement of this Act shall be deemed to have been commissioned as an officer or as a junior commissioned officer or appointed as a warrant officer, or attested or enrolled, as the case may be, in the regular Army.

CHAPTER IV

Conditions of Service

18. *Tenure of service under the Act.*—Every person subject to this Act shall hold office during the pleasure of the Governor-General.

19. *Termination of service by Central Government.*—The Central Government may dismiss, or remove from the service, any person subject to this Act.

20. *Dismissal, removal or reduction by Commander-in-Chief and by other officers.*—(*1*) The Commander-in-Chief may dismiss or remove from the service any person subject to this Act other than an officer.

(*2*) The Commander-in-Chief may reduce to a lower grade or rank or the ranks any warrant officer or any non-commissioned officer.

(*3*) An officer having power not less than a brigade or equivalent commander or any prescribed officer may dismiss or remove from the service any person serving under his command other than an officer or a junior commissioned officer.

(*4*) Any such officer as is mentioned in sub-section (*3*) may reduce to a lower grade or rank or the ranks, any warrant officer or any non-commissioned officer under his command.

(*5*) A warrant officer reduced to the ranks under this section shall not, however, be required to serve in the ranks as a sepoy.

(*6*) The commanding officer of an acting non-commissioned officer may order him to revert to his permanent grade as a non-commissioned officer, or if he has no permanent grade above the ranks, to the ranks.

21. *Restriction of certain fundamental rights in their application to persons subject to this Act.*—Notwithstanding anything contained in the Constitution and save as may be otherwise provided in any rules made by the Central Government in this behalf, any person subject to this Act shall not—

(*a*) be a member of, or be associated in any way with, any trade union, labour union or other similar organisation;

(*b*) be a member of, or be associated in any way with, any society, institution, association or other body of persons which is not recognised as part of the regular Army;

(*c*) address any meeting, or take part in any demonstration, organised by any body of persons for any political or other purposes,

(*d*) Communicate with the press or publish or cause to be published any book, letter or other document, except with the previous permission of the Central Government or of any officer specified in this behalf by the Central Government.

22. *Retirement, release or discharge.*—Any person subject to this Act may be retired, released or discharged from the service by such authority and in such manner as may be prescribed.

23. *Certificate on termination of service.*—Every junior commissioned officer, warrant officer, or enrolled person who is dismissed, removed, discharged, retired or released from the service shall be furnished by his commanding officer with a certificate, in the language which is the mother tongue of such person and also in the English language setting forth—

(*a*) the authority terminating his service;

(*b*) the cause for such termination; and

(*c*) the full period of his service in the regular Army.

24. *Discharge or dismissal when out of India.*—(*1*) Any person enrolled under this Act who is entitled under the conditions of his enrolment to be discharged, or whose discharge is ordered by competent authority, and who, when he is so entitled or ordered to be disharged, is serving out of India, and requests to be sent to India, shall, before being discharged, be sent to India with all convenient speed.

(*2*) Any person enrolled under this Act who is dismissed from the service and who, when he is so dismissed, is serving out of India, shall be sent to India with all convenient speed.

(*3*) Where any such person as is mentioned in sub-section (*2*) is sentenced to dismissal combined with any other punishment, such other punishment, or, in the case of a sentence of transportation or imprisonment, a portion of such sentence may be inflicted before he is sent to India.

(*4*) For the purposes of this section, the word "discharge" shall include release, and the word "dismissal" shall include removal.

CHAPTER V

Service Privileges

25. *Authorised deductions only to be made from pay.*—The pay of every person subject to this Act due to him as such under any regulation for the time being in force shall be paid without any deduction other than the deductions authorised by or under this or any other Act.

26. *Remedy of aggrieved persons other than officers.*—(*1*) Any person subject to this Act other than an officer who deems himself wronged by any superior or other officer may, if not attached to a troop or company, complain to the officer under whose command or orders he is serving; and may, if attached to a troop or company, complain to the officer commanding the same.

(*2*) When the officer complained against is the officer to whom any complaint should, under sub-section (*1*), be preferred, the aggrieved person may complain to such officer's next superior officer.

(*3*) Every officer receiving any such complaint shall make as complete an investigation into it as may be possible for giving full redress to the complainant; or, when necessary, refer the complaint to superior authority.

(*4*) Every such complaint shall be preferred in such manner as may from time to time be specified by proper authority.

(5) A decision by an authority competent to dispose of the matter complained of shall be final.

27. *Remedy of aggrieved officers.*—Any officer who deems himself wronged by his commanding officer or any superior officer and who on due application made to his commanding officer does not receive the redress to which he considers himself entitled, may complain to the Central Government in such manner as may from time to time be specified by the proper authority.

28. *Immunity from attachment.*—Neither the arms, clothes, equipment, accoutrements or necessaries of any person subject to this Act, nor any animal used by him for the discharge of his duty, shall be seized, nor shall the pay and allowances of any such person or any part thereof be attached, by direction of any civil or revenue court or any revenue officer in satisfaction of any decree or order enforceable against him.

29. *Immunity from arrest for debt.*—(1) No person subject to this Act shall, so long as he belongs to the Forces, be liable to be arrested for debt under any process issued by, or by the authority of, any civil or revenue court or revenue officer.

(2) The judge of any such court or the said officer may examine into any complaint made by such person or his superior officer of the arrest of such person contrary to the provisions of this section and may, by warrant under his hand, discharge the person, and award reasonable costs to the complainant, who may recover those costs in like manner as he might have recovered costs awarded to him by a decree against the person obtaining the process.

(3) For the recovery of such costs no court-fee shall be payable by the complainant.

30. *Immunity of persons attending courts-martial from arrest.*—(1) No president or member of a court-martial, no judge advocate, no party to any proceeding before a court-martial, or his legal practitioner or agent, and no witness acting in obedience to a summons to attend a court-martial shall, while proceeding to, attending, or returning from, a court- martial, be liable to arrest under civil or revenue process.

(2) If any such person is arrested under any such process, he may be discharged by order of the court-martial.

31. *Privileges of reservists.*—Every person belonging to the Indian Reserve Forces shall, when called out for or engaged in or returning from, training or service, be entitled to all the privileges accorded by sections 28 and 29 to a person subject to this Act.

32. *Priority in respect of army personnel's litigation.*—(1) On the presentation to any court by or on behalf of any person subject to this Act of a certificate from the proper military authority of leave of absence having been granted to or applied for by him for the purpose of prosecuting or defending any suit or other proceeding in such court, the court shall, on the application of such person, arrange, so far as may be possible, for the hearing and final disposal of such suit or other proceeding within the period of the leave so granted or applied for.

(2) The certificate from the proper military authority shall state the first and last day of the leave or intended leave, and set forth a description of the case with respect to which the leave was granted or applied for.

(3) No fee shall be payable to the court in respect of the presentation of any such certificate, or of any application by on behalf of any such person, for priority for the hearing of his case.

(4) Where the court is unable to arrange for the hearing and final disposal of the suit or other proceeding within the period of such leave or intended leave as aforesaid, it shall record its reasons for its inability to do so, and shall cause a copy thereof to be furnished to such person on his application without any payment whatever by him in respect either of the application for such copy or of the copy itself.

(5) If in any case a question arises as to the proper military authority qualified to grant such certificate as aforesaid, such question shall at once be referred by the court to an officer having power not less than a brigade or equivalent commander whose decision shall be final.

33. *Saving of rights and privileges under other laws.*—The rights and privileges specified in the preceding sections of this Chapter shall be in addition to, and not in derogation of, any other rights and privileges conferred on persons subject to this Act or on members of the regular Army, Navy and Air Force generally by any other law for the time being in force.

CHAPTER VI

OFFENCES

34. *Offences in relation to the enemy and punishable with death.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(a) shamefully abandons or delivers up any garrison, fortress, post, place or guard, committed to his charge, or which it is his duty to defend, or uses any means to compel or induce any commanding officer or other person to commit any of the said acts; or

(b) intentionally uses any means to compel or induce any person subject to military, naval or air force law to abstain from acting against the enemy, or to discourage such person from acting against the enemy; or

(c) in the presence of the enemy, shamefully casts away his arms, ammunition, tools or equipment or misbehaves in such manner as to show cowardice; or

(d) treacherously holds correspondence with, or communicates intelligence to, the enemy or any person in arms against the Union; or

(e) directly or indirectly assists the enemy with money, arms, ammunition, stores or supplies; or

(f) treacherously or through cowardice sends a flag of truce to the enemy; or

(g) in time of war or during any military operation, intentionally occasions a false alarm in action, camp, garrison or quarters, or spreads reports calculated to create alarm or despondency; or

(h) in time of action leaves his commanding officer or his post, guard, picquet, patrol or party without being regularly relieved or without leave; or

(i) having been made a prisoner of war, voluntarily serves with or aids the enemy; or

(j) knowingly harbours or protects an enemy not being a prisoner; or

(k) being a sentry in time of war or alarm, sleeps upon his post or is intoxicated; or

(*l*) knowingly does any act calculated to imperil the success of the military, naval or air forces of India or any forces co-operating therewith or any part of such forces;

shall, on conviction by court-martial, be liable to suffer death or such less punishment as is in this Act mentioned.

35. *Offences in relation to the enemy and not punishable with death.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) is taken prisoner, by want of due precaution, or through disobedience of orders, or wilful neglect of duty, or having been taken prisoner, fails to rejoin his service when able to do so; or

(*b*) without due authority holds correspondence with or communicates intelligence to the enemy or having come by the knowledge of any such correspondence or communication, wilfully omits to discover it immediately to his commanding or other superior officer; or

(*c*) without due authority sends a flag of truce to the enemy;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

36. *Offences punishable more severely on active service than at other times.*—Any person subject to this Act who commits any of the following offences that is to say,—

(*a*) forces a safeguard, or forces or uses criminal force to a sentry; or

(*b*) breaks into any house or other place in search of plunder; or

(*c*) being a sentry sleeps upon his post, or is intoxicated; or

(*d*) without orders from his superior officer leaves his guard, picquet, patrol or post; or

(*e*) intentionally or through neglect occasions a false alarm in camp, garrison, or quarters; or spreads reports calculated to create unnecessary alarm or despondency; or

(*f*) makes known the parole, watchword or countersign to any person not entitled to receive it; or knowingly gives a parole, watchword or countersign different from what he received;

shall, on conviction by court-martial,

if he commits any such offence when on active service, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned, and

if he commits any such offence when not on active service, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

37. *Mutiny.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) begins, incites, causes, or conspires with any other persons to cause any mutiny in the military, naval or air forces of India or any forces, co-operating therewith; or

(*b*) joins in any such mutiny; or

(*c*) being present at any such mutiny, does not use his utmost endeavours to suppress the same; or

(*d*) knowing or having reason to believe in the existence of any such mutiny, or of any intention to mutiny or of any such conspiracy, does not, without delay, give information thereof to his commanding or other superior officer; or

(*e*) endeavours to seduce any person in the military, naval or air forces of India from his duty or allegiance to the Union;

shall, on conviction by court-martial, be liable to suffer death or such less punishment as is in this Act mentioned.

38. *Desertion and aiding desertion.*—(*1*) Any person subject to this Act who deserts or attempts to desert the service shall, on conviction by court-martial,

if he commits the offence on active service or when under orders for active service, be liable to suffer death or such less punishment as is in this Act mentioned, and

if he commits the offence under any other circumstances, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

(*2*) Any person subject to this Act who, knowingly harbours any such deserter shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

(*3*) Any person subject to this Act who, being cognizant of any desertion or attempt at desertion of a person subject to this Act, does not forthwith give notice to his own or some other superior officer, or take any steps in his power to cause such person to be apprehended, shall on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

39. *Absence without leave.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) absents himself without leave; or

(*b*) without sufficient cause overstays leave granted to him; or

(*c*) being on leave of absence and having received information from proper authority that any corps, or portion of a corps, or any department, to which he belongs, has been ordered on active service, fails, without, sufficient cause, to rejoin without delay; or

(*d*) without sufficient cause fails to appear at the time fixed at the parade or place appointed for exercise or duty; or

(*e*) when on parade, or on the line of march, without sufficient cause or without leave from his superior officer, quits the parade or line of march; or

(*f*) when in camp or garrison or elsewhere, is found beyond any limits fixed, or in any place prohibited, by any general, local or other order, without a pass or written leave from his superior officer; or

(*g*) without leave from his superior officer or without due cause, absents himself from any school when duly ordered to attend there;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

40. *Striking or threatening superior officers.*—Any person subject to this Act who commits any of the following offences, that is to say;—

(*a*) uses criminal force to or assaults his superior officer; or

(*b*) uses threatening or insubordinate language to such officer;

shall, on conviction by court-martial,

if such officer is at the time in the execution of his office or, if the offence is committed on active service, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

in other cases, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

41. *Disobedience to superior officer.*—(*1*) Any person subject to this Act who disobeys in such manner as to show a wilful defiance of authority any lawful command given personally by his superior officer in the execution of his office whether the same is given orally, or in writing or by signal or otherwise, shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

(*2*) Any person subject to this Act who disobeys any lawful command given by his superior officer shall on conviction by court-martial,

if he commits such offence on active service, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

if he commits such offence not on active service, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

42. *Insubordination and obstruction.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) being concerned in any quarrel, affray, or disorder, refuses to obey any officer, though of inferior rank, who orders him into arrest, or uses criminal force to or assaults any such officer; or

(*b*) uses criminal force to, or assaults any person, whether subject to this Act or not, in whose custody he is lawfully placed, and whether he is or is not his superior officer; or

(*c*) resists an escort whose duty it is to apprehend him or to have him in charge; or

(*d*) breaks out of barracks, camp or quarters; or

(*e*) neglects to obey any general, local or other orders; or

(*f*) impedes the provost-marshal or any person lawfully acting on his behalf, or when called upon, refuses to assist in the execution of his duty a provost-marshal or any person lawfully acting on his behalf; or

(*g*) uses criminal force to or assaults any person bringing provisions or supplies to the forces;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend; in the case of the offences specified in clauses (*d*) and (*e*) to two years, and in the case of the offences specified in the other clauses to ten years, or such less punishment as is in this Act mentioned.

43. *Fraudulent enrolment.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) without having obtained a regular discharge from the corps or department to which he belongs, or otherwise fulfilled the conditions enabling him to enrol or enter, enrols himself in, or enters the same or any other corps or department or any part of the naval or air forces of India or the Territorial Army; or

(*b*) is concerned in the enrolment in any part of the Forces, of any person when he knows or has reason to believe such person to be so circumstanced that by enrolling he commits an offence against this Act;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

44. *False answers on enrolment.*—Any person having become subject to this Act who is discovered to have made at the time of enrolment a wilfully false answer to any question set forth in the prescribed form of enrolment which has been put to him by the enrolling officer before whom he appears for the purpose of being enrolled, shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

45. *Unbecoming conduct.*—Any officer, junior commissioned officer or warrant officer who behaves in a manner unbecoming his position and the character expected of him shall, on conviction by court-martial, if he is an officer, be liable to be cashiered or to suffer such less punishment as is in this Act mentioned; and, if he is a junior commissioned officer or a warrant officer, be liable to be dismissed or to suffer such less punishment as is in this Act mentioned.

46. *Certain forms of disgraceful conduct.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) is guilty of any disgraceful conduct of a cruel, indecent or unnatural kind; or

(*b*) malingers, or feigns, or produces disease or infirmity in himself, or intentionally delays his cure or aggravates his disease or infirmity; or

(*c*) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or that person;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

47. *Ill-treating a subordinate.*—Any officer, junior commissioned officer, warrant officer or non-commissioned officer who uses criminal force to or otherwise ill-treats any person subject to this Act, being his subordinate in rank or position, shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

48. *Intoxication.*—(*1*) Any person subject to this Act who is found in a state of intoxication, whether on duty or not, shall, on conviction by court-martial, if he is an officer, be liable to be cashiered or to suffer such less punishment as is in this Act mentioned; and if he is not an officer, be liable, subject to the provisions of sub-section (*2*), to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

(2) Where an offence of being intoxicated is committed by a person other than an officer when not on active service or not on duty, the period of imprisonment awarded shall not exceed six months.

49. *Permitting escape of person in custody.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) when in command of a guard, picquet, patrol or post, releases without proper authority, whether wilfully or without reasonable excuse, any person committed to his charge, or refuses to receive any prisoner or person so committed; or

(*b*) wilfully or without reasonable excuse allows to escape any person who is committed to his charge, or whom it is his duty to keep or guard;

shall, on conviction by court-martial, be liable, if he has acted wilfully, to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and if he has not acted wilfully, to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

50. *Irregularity in connection with arrest or confinement.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) unnecessarily detains a person in arrest or confinement without bringing him to trial, or fails to bring his case before the proper authority for investigation; or

(*b*) having committed a person to military custody fails without reasonable cause to deliver at the time of such committal, or as soon as practicable, and in any case within forty-eight hours thereafter, to the officer or other person into whose custody the person arrested is committed, an account in writing signed by himself of the offence with which the person so committed is charged;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

51. *Escape from custody.*—Any person subject to this Act who, being in lawful custody, escapes or attempts to escape, shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

52. *Offences in respect of property.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) commits theft of any property belonging to the Government, or to any military, naval or air force mess, band or institution, or to any person subject to military, naval or air force law; or

(*b*) dishonestly misappropriates or converts to his own use any such property; or

(*c*) commits criminal breach of trust in respect of any such property; or

(*d*) dishonestly receives or retains any such property in respect of which any of the offences under clauses (*a*), (*b*) and (*c*) has been committed, knowing or having reason to believe the commission of such offence; or

(*e*) wilfully destroys or injures any property of the Government entrusted to him; or

(*f*) does any other thing with intent to defraud, or to cause wrongful gain to one person or wrongful loss to another person;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

53. *Extortion and corruption.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) commits extortion; or

(*b*) without proper authority exacts from any person money, provisions or service;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend in the case of the offence specified in clause (*a*) to seven years, and in the case of the offences specified in clause (*b*) to five years, or such less punishment as is in this Act mentioned.

54. *Making away with equipment.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) makes away with, or is concerned in making away with, any arms, ammunition, equipment, instruments, tools, clothing or any other thing being the property of the Government issued to him for his use or entrusted to him; or

(*b*) loses by neglect anything mentioned in clause (*a*); or

(*c*) sells, pawns, destroys or defaces any medal or decoration granted to him;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

55. *Injury to property.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) wilfully destroys or injures any property mentioned in clause (*a*) of section 54 or any property belonging to any military, naval or air force mess, band or institution, or to any person subject to military, naval or air force law, or serving with, or attached to, the regular Army; or

(*b*) commits any act, whether wilfully or without reasonable excuse, which causes damage to, or destruction of, any property of the Government by fire; or

(*c*) wilfully or without reasonable excuse kills, injures, makes away with, ill-treats or loses any animal entrusted to him;

shall, on conviction by court-martial, be liable, if he has acted wilfully, to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and in any other case, to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

56. *False accusations.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) makes a false accusation against any person subject to this Act, knowing or having reason to believe such accusation to be false; or

(*b*) in making a complaint under section 26 or section 27 makes any statement affecting the character of any person subject to this Act, knowing or having reason to believe such statement to be false, or knowingly and wilfully suppresses any material facts;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

57. *Falsifying official documents and false declaration.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) in any report, return, list, certificate, book or other document made or signed by him, or of the contents of which it is his duty to ascertain the accuracy, knowingly makes, or is privy to the making of any false or fraudulent statement; or

(*b*) in any document of the description mentioned in clause (*a*) knowingly makes, or is privy to the making of, any omission, with intent to defraud; or

(*c*) knowingly and with intent to injure any person, or knowingly and with intent to defraud, suppresses, defaces, alters or makes away with any document which it is his duty to preserve or produce; or

(*d*) where it is his official duty to make a declaration respecting any matter, knowingly makes a false declaration; or

(*e*) obtains for himself, or for any other person, any pension, allowance or other advantage or privilege by a statement which is false, and which he either knows or believes to be false or does not believe to be true, or by making or using a false entry in any book or record or by making any document containing a false statement, or by omitting to make a true entry or document containing a true statement;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

58. *Signing in blank and failure to report.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) when signing any document relating to pay, arms, ammunition, equipment, clothing, supplies or stores, or any property of the Government leaves in blank any material part for which his signature is a voucher; or

(*b*) refuses or by culpable neglect omits to make or send a report or return which it is his duty to make or send; shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

59. *Offences relating to court-martial.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) being duly summoned or ordered to attend as a witness before a court-martial, wilfully or without reasonable excuse, makes default in attending; or

(*b*) refuses to take an oath or make an affirmation legally required by a court-martial to be taken or made; or

(*c*) refuses to produce or deliver any document in his power or control legally required by a court-martial to be produced or delivered by him; or

(*d*) refuses when a witness to answer any question which he is by law bound to answer; or

(*e*) is guilty of contempt of court-martial by using insulting or threatening language, or by causing any interruption or disturbance in the proceedings of such court;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

60. *False evidence.*—Any person subject to this Act who, having been duly sworn or affirmed before any court-martial or other court competent under this Act to administer an oath or affirmation, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

61. *Unlawful detention of pay.*—Any officer, junior commissioned officer, warrant officer or non-cimmissioned officer who, having received the pay of a person subject to this Act unlawfully detains or refuses to pay the same when due, shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

62. *Offences in relation to aircraft and flying.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) wilfully or without reasonable excuse damages, destroys or loses any aircraft or aircraft material belonging to the Government ; or

(*b*) is guilty of any act or neglect likely to cause such damage, destruction or loss ; or

(*c*) without lawful authority disposes of any aircraft or aircraft material belonging to the Government ; or

(*d*) is guilty of any act or neglect in flying, or in the use of any aircraft, or in relation to any aircraft or aircraft material, which causes or is likely to cause loss of life or bodily injury to any person ; or

(*e*) during a state of war, wilfully and without proper occasion, or negligently, causes the sequestration, by or under the authority of a neutral state, or the destruction in a neutral state of any aircraft belonging to the Government ;

shall, on conviction by court-martial be liable, if he has acted wilfully, to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned, and in any other case, to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

63. *Violation of good order and discipline.*—Any person subject to this Act who is guilty of any act or omission which though not specified in this Act, is prejudicial to good order and military discipline shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

64. *Miscellaneous offences.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) being in command at any post or on the march, and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has disturbed any fair or market, or committed any riot or trespass, fails to have due reparation made to the injured person or to report the case to the proper authority ; or

(*b*) by defiling any place of worship, or otherwise, intentionally insults the religion or wounds the religious feelings of any person ; or

(*c*) attempts to commit suicide, and in such attempt does any act towards the commission of such offence ; or

(*d*) being below the rank of warrant officer, when off duty, appears, without proper authority, in or about camp or cantonments, or in or about, or when going to or returning from, any town or bazaar, carrying a rifle, sword or other offensive weapon ; or

(*e*) directly or indirectly accepts or obtains, or agrees to accept or attempts to obtain, for himself or for any other person, any gratification as a motive or reward for procuring the enrolment of any person, or leave of absence, promotion or any other advantage or indulgence for any person in the service ; or

(*f*) commits any offence against the property or person of any inhabitant of, or resident in, the country in which he is serving ;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

65. *Attempt.*—Any person subject to this Act who attempts to commit any of the offences specified in sections 34 to 64 inclusive and in such attempt does any act towards the commission of the offence shall, on conviction by court-martial, where no express provision is made by this Act for the punishment of such attempt, be liable,

if the offence attempted to be committed is punishable with death, to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned ; and

if the offence attempted to be committed is punishable with imprisonment, to suffer imprisonment for a term which may extend to one-half of the longest term provided for that offence or such less punishment as is in this Act mentioned.

66. *Abetment of offences that have been committed.*—Any person subject to this Act who abets the commission of any of the offences specified in sections 34 to 64 inclusive shall, on conviction by court-martial, if the Act abetted is committed in consequence of the abetment and no express provision is made by this Act for the punishment of such abetment, be liable to suffer the punishment provided for that offence or such less punishment as is in this Act mentioned.

67. *Abetment of offences punishable with death and not committed.*—Any person subject to this Act who abets the commission of any of the offences punishable with death under sections 34, 37 and sub-section (*1*) of section 38 shall, on conviction by court-martial, if that offence be not committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

68. *Abetment of offences punishable with imprisonment and not committed.* —Any person subject to this Act who abets the commission of any of the offences specified in sections 34 to 64 inclusive and punishable with imprisonment shall, on conviction by court-martial, if that offence be not committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be liable to suffer imprisonment for a term which may extend to one-half of the longest term provided for that offence or such less punishment as is in this Act mentioned.

69. *Civil offences.*—Subject to the provisions of section 70, any person subject to this Act who at any place in or beyond India commits any civil offence shall

be deemed to be guilty of an offence against this Act and, if charged therewith under this section, shall be liable to be tried by a court-martial and, on conviction, be punishable as follows, that is to say,—

(*a*) if the offence is one which would be punishable under any law in force in India with death or with transportation, he shall be liable to suffer any punishment, other than whipping, assigned for the offence, by the aforesaid law and such less punishment as is in this Act mentioned; and

(*b*) in any other case, he shall be liable to suffer any punishment, other than whipping, assigned for the offence by the law in force in India, or imprisonment for a term which may extend to seven years, or such less punishment as is in this Act mentioned.

70. *Civil offences not triable by court-martial.*—A person subject to this Act who commits an offence of murder against a person not subject to military, naval or air force law, or of culpable homicide not amounting to murder against such a person or of rape in relation to such a person, shall not be deemed to be guilty of an offence against this Act and shall not be tried by a court-martial, unless he commits any of the said offences—

(*a*) while on active service, or

(*b*) at any place outside India, or

(*c*) at a frontier post specified by the Central Government by notification in this behalf.

CHAPTER VII

PUNISHMENTS

71. *Punishments awardable by courts-martial.*—Punishments may be inflicted in respect of offences committed by persons subject to this Act and convicted by courts-martial, according to the scale following, that is to say,—

(*a*) death;

(*b*) transportation for life or for any period not less than seven years;

(*c*) imprisonment, either rigorous or simple, for any period not exceeding fourteen years;

(*d*) cashiering, in the case of officers;

(*e*) dismissal from the service;

(*f*) reduction to the ranks or to a lower rank or grade or place in the list of their rank, in the case of warrant officers; and reduction to the ranks or to a lower rank or grade, in the case of non-commissioned officers:

Provided that a warrant officer reduced to the ranks shall not be required to serve in the ranks as a sepoy;

(*g*) forfeiture of seniority of rank, in the case of officers, junior commissioned officers, warrant officers and non-commissioned officers; and forfeiture of all or any part of their service for the purpose of promotion, in the case of any of them whose promotion depends upon length of service;

(*h*) forfeiture of service for the purpose of increased pay, pension or any other prescribed purpose;

(*i*) severe reprimand or reprimand, in the case of officers, junior commissioned officers, warrant officers and non-commissioned officers;

(*j*) forfeiture of pay and allowances for a period not exceeding three months for an offence committed on active service;

(*k*) forfeiture in the case of a person sentenced to cashiering or dismissal from the service of all arrears of pay and allowances and other public money due to him at the time of such cashiering or dismissal;

(*l*) stoppage of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good.

72. *Alternative punishments awardable by court-martial.*—Subject to the provisions of this Act, a court-martial may, on convicting a person subject to this Act of any of the offences specified in sections 34 to 68 inclusive, award either the particular punishment with which the offence is stated in the said sections to be punishable, or, in lieu thereof, any one of the punishments lower in the scale set out in section 71, regard being had to the nature and degree of the offence.

73. *Combination of punishments.*—A sentence of a court-martial may award in addition to, or without any one other punishment, the punishment specified in clause (*d*) or clause (*e*) of section 71 and any one or more of the punishments specified in clauses (*f*) to (*l*) of that section.

74. *Cashiering of officers.*—An officer shall be sentenced to be cashiered before he is awarded any of the punishments specified in clauses (*a*) to (*c*) of section 71.

75. *Field punishment.*—Where any person subject to this Act and under the rank of warrant officer commits any offence on active service, it shall be lawful for a court-martial to award for that offence any such punishment as is prescribed as a field punishment. Field punishment shall be of the character of personal restraint or of hard labour but shall not be of a nature to cause injury to life or limb and shall not include flogging.

76. *Position of field punishment in scale of punishments.*—Field punishment shall for the purpose of commutation be deemed to stand next below dismissal in the scale of punishments specified in section 71.

77. *Result of certain punishments in the case of a warrant officer or non-commissioned officer.*—A warrant officer or a non-commissioned officer sentenced by a court-martial to transportation, imprisonment, field punishment or dismissal from the service, shall be deemed to be reduced to the ranks.

78. *Retention in the ranks of a person convicted on active service.*—When, on active service, any enrolled person has been sentenced by a court-martial to dismissal, or to transportation or imprisonment whether combined with dismissal or not, the prescribed officer may direct that such person may be retained to serve in the ranks, and such service shall be reckoned as part of his term of transportation or imprisonment, if any.

79. *Punishments otherwise than by court-martial.*—Punishments may also be inflicted in respect of offences committed by persons subject to this Act without the intervention of a court-martial and in the manner stated in sections 80, 83, 84 and 85.

80. *Punishment of persons other than officers, junior commissioned officers and warrant officers.*—Subject to the provisions of section 81, a commanding officer or such other officer as is, with the consent of the Central Government, specified by the Commander-in-Chief, may, in the prescribed manner, proceed against a person subject to this Act otherwise than as an officer, junior commissioned officer or warrant officer who is charged with an offence under this Act and award such person, to the extent prescribed, one or more of the following punishments, that is to say,—

(*a*) imprisonment in military custody up to twenty-eight days;
(*b*) detention up to twenty-eight days;
(*c*) confinement to the lines up to twenty-eight days;
(*d*) extra guards or duties;

(*e*) deprivation of a position of the nature of an appointment or of corps or working pay, and in the case of non-commissioned officers, also deprivation of acting rank or reduction to a lower grade of pay;

(*f*) forfeiture of good service and good conduct pay;

(*g*) severe reprimand or reprimand;

(*h*) fine up to fourteen days' pay in any one month;

(*i*) penal deductions under clause (*g*) of section 91;

(*j*) any prescribed field punishment up to twenty-eight days, in the case of a person on active service.

81. *Limit of punishments under section* 80.—(*1*) An award of punishment under section 80 shall not include field punishment in addition to one or more of the punishments specified in clauses (*a*), (*b*) and (*c*) of that section.

(*2*) In the case of an award of two or more of the punishments specified in clauses (*a*), (*b*), (*c*) and (*d*) of the said section, the punishment specified in clause (*c*) or clause (*d*) shall take effect only at the end of the punishment specified in clause (*a*) or clause (*b*).

(*3*) When two or more of the punishments specified in the said clauses (*a*), (*b*) and (*c*) are awarded to a person conjointly, or when already undergoing one or more of the said punishments, the whole extent of the punishments shall not exceed in the aggregate forty-two days.

(*4*) The punishments specified in clauses (*a*), (*b*), (*c*) and (*j*), of section 80 shall not be awarded to any person who is of the rank of non-commissioned officer or was, at the time of committing the offence for which he is punished, of such rank.

(*5*) The punishment specified in clause (*g*) of the said section shall not be awarded to any person below the rank of a non-commissioned officer.

82. *Punishments in addition to those specified in section* 80.—The Commander-in-Chief may, with the consent of the Central Government, specify such other punishments as may be awarded under section 80 in addition to or without any of the punishments specified in the said section, and the extent to which such other punishments may be awarded.

83. *Punishment of officers, junior commissioned officers and warrant officers by brigade commanders and others.*—An officer having power not less than a brigade, or an equivalent commander or such other officer as is, with the consent of the Central Government, specified by the Commander-in-Chief may in the prescribed manner, proceed against an officer below the rank of a field officer, a junior commissioned officer or a warrant officer, who is charged with an offence under this Act, and award one or more of the following punishments, that is to say,—

(*a*) severe reprimand or reprimand;

(*b*) stoppage of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good.

84. *Punishment of officers, junior commissioned officers and warrant officers by area commanders and others.*—An officer having power not less than an area commander or an equivalent commander or an officer empowered to convene a general court-martial or such other officer as is, with the consent of the Central Government, specified by the Commander-in-Chief may, in the prescribed manner, proceed against an officer below the rank of lieutenant-colonel, a junior commissioned officer or a warrant officer, who is charged with an offence under this Act, and award one or more of the following punishments, that is to say,—

(*a*) forfeiture of seniority, or in the case of any of them whose promotion depends upon length of service, forfeiture of service for the purpose of

promotion for a period not exceeding twelve months, but subject to the right of the accused previous to the award to elect to be tried by a court-martial;

(*b*) severe reprimand or reprimand;

(*c*) stoppage of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good.

85. *Punishment of junior commissioned officers.*—A commanding officer or such other officer as is, with the consent of the Central Government, specified by the Commander-in-Chief may, in the prescribed manner, proceed against a junior commissioned officer who is charged with an offence under this Act and award the punishment of stoppage of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good.

86. *Transmission of proceedings.*—In every case in which punishment has been awarded under any of the sections 83, 84 and 85, certified true copies of the proceedings shall be forwarded, in the prescribed manner, by the officer awarding the punishment, to a superior military authority as defined in section 88.

87. *Review of proceedings.*—If any punishment awarded under any of the sections 83, 84 and 85 appears to a superior military authority as defined in section 88 to be illegal, unjust or excessive, such authority may cancel, vary or remit the punishment and make such other direction as may be appropriate in the circumstances of the case.

88. *Superior military authority.*—For the purpose of sections 86 and 87, a 'superior military authority' means—

(*a*) in the case of punishments awarded by a commanding officer, any officer superior in command to such commanding officer;

(*b*) in the case of punishments awarded by any other authority, the Central Government, the Commander-in-Chief or other officer specified by the Commander-in-Chief.

89. *Collective fines.*—(*1*) Whenever any weapon or part of a weapon forming part of the equipment of a half squadron, battery, company or other similar unit is lost or stolen, the officer commanding the army, army corps, division or independent brigade to which such unit belongs may, after obtaining the report of a court of inquiry, impose a collective fine upon the junior commissioned officers, warrant officers, non-commissioned officers and men of such unit, or upon so many of them as, in his judgment, should be held responsible for such loss or theft.

(*2*) Such fine shall be assessed as a percentage on the pay of the individuals on whom it falls.

CHAPTER VIII

Penal Deductions

90. *Deductions from pay and allowances of officers.*—The following penal deductions may be made from the pay and allowances of an officer, that is to say,—

(*a*) all pay and allowances due to an officer for every day he absents himself without leave, unless a satisfactory explanation has been given to his commanding officer and has been approved by the Central Government;

(*b*) all pay and allowances for every day while he is in custody on a charge for an offence for which he is afterwards convicted by a criminal Court or a court-martial or by an officer exercising authority under section 83 or section 84;

(*c*) any sum required to make good the pay of any person subject to this Act which he has unlawfully retained or unlawfully refused to pay;

(*d*) any sum required to make good such compensation for any expenses, loss, damage or destruction occasioned by the commission of an offence as may be determined by the court-martial by whom he is convicted of such offence, or by an officer exercising authority under section 83 or section 84;

(*e*) all pay and allowances ordered by a court-martial or an officer exercising authority under section 85 to be forfeited or stopped;

(*f*) any sum required to pay a fine awarded by a criminal court or a court-martial exercising jurisdiction under section 69;

(*g*) any sum required to make good any loss, damage, or destruction of public or regimental property which, after due investigation, appears to the Central Government to have been occasioned by the wrongful act or negligence on the part of the officer;

(*h*) all pay and allowances forfeited by order of the Central Government if the officer is found by a court of inquiry constituted by the Commander-in-Chief in this behalf, to have deserted to the enemy, or while in enemy hands, to have served with, or under the orders of, the enemy, or in any manner to have aided the enemy, or to have allowed himself to be taken prisoner by the enemy through want of due precaution or through disobedience of orders or wilful neglect of duty, or having been taken prisoner by the enemy, to have failed to rejoin his service when it was possible to do so;

(*i*) any sum required by order of the Central Government to be paid for the maintenance of his wife or his legitimate or illegitimate child or towards the cost of any relief given by the said Government to the said wife or child.

91. *Deductions from pay and allowances of persons other than officers.*— Subject to the provisions of section 94 the following penal deductions may be made from the pay and allowances of a person subject to this Act other than an officer, that is to say,—

(*a*) all pay and allowances for every day of absence either on desertion or without leave, or as a prisoner of war, and for every day of transportation or imprisonment awarded by a criminal court, a court-martial or an officer exercising authority under section 80, or of field punishment awarded by a court-martial or such officer;

(*b*) all pay and allowances for every day while he is in custody on a charge for an offence of which he is afterwards convicted by a criminal Court or a court-martial, or on a charge of absence without leave for which he is afterwards awarded imprisonment or field punishment by an officer exercising authority under section 80;

(*c*) all pay and allowances for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by an offence under this Act committed by him;

(*d*) for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by his own misconduct or imprudence, such sum as may be specified by order of the Central Government or such officer as may be specified by that Government;

(*e*) all pay and allowances ordered by a court-martial or by an officer exercising authority under any of the sections 80, 83, 84 and 85, to be forfeited or stopped;

(*f*) all pay and allowances for every day between his being recovered from the enemy and his dismissal from the service in consequence of his conduct when being taken prisoner by, or while in the hands of, the enemy;

(*g*) any sum required to make good such compensation for any expenses, loss, damage or destruction caused by him to the Central Government or to any building or property as may be awarded by his commanding officer;

(*h*) any sum required to pay a fine awarded by a criminal court, a court-martial exercising jurisdiction under section 69, or an officer exercising authority under any of the sections 80 and 89;

(*i*) any sum required by order of the Central Government or any prescribed officer to be paid for the maintenance of his wife or his legitimate or illegitimate child or towards the cost of any relief given by the said Government to the said wife or child.

92. *Computation of time of absence or custody.*—For the purposes of clauses (*a*) and (*b*) of section 91,—

(*a*) no person shall be treated as absent or in custody for a day unless the absence or custody has lasted, whether wholly in one day, or partly in one day and partly in another, for six consecutive hours or upwards;

(*b*) any absence or custody for less than a day may be reckoned as absence or custody for a day if such absence or custody prevented the absentee from fulfilling any military duty which was thereby thrown upon some other person;

(*c*) absence or custody for twelve consecutive hours or upwards may be reckoned as absence or custody for the whole of each day during any portion of which the person was absent or in custody;

(*d*) a period of absence, or imprisonment, which commences before, and ends after, midnight may be reckoned as a day.

93. *Pay and allowances during trial.*—In the case of any person who is in custody on a charge for an offence, the prescribed officer may direct that the whole or any part of the pay and allowances of such person shall be withheld, pending the result of his trial on the charge against him, in order to give effect to the provisions of clause (*b*) of sections 90 and 91.

94. *Limit of certain deductions.*—The total deductions from the pay and allowances of a person made under clauses (*e*), (*g*) to (*i*) of section 91 shall not, except where he is sentenced to dismissal, exceed in any one month one-half of his pay and allowances for that month.

95. *Deduction from public money due to a person.*—Any sum authorised by this Act to be deducted from the pay and allowances of any person may, without prejudice to any other mode of recovering the same, be deducted from any public money due to him other than a pension.

96. *Pay and allowances of prisoner of war during inquiry into his conduct.*—Where the conduct of any person subject to this Act when being taken prisoner by, or while in the hands of, the enemy, is to be inquired into under this Act or any other law, the Commander-in-Chief or any officer authorised by him may order that the whole or any part of the pay and allowances of such person shall be withheld pending the result of such inquiry.

97. *Remission of deductions.*—Any deduction from pay and allowances authorised by this Act may be remitted in such manner and to such extent, and by such authority, as may from time to time be prescribed.

98. *Provision for dependants of prisoner of war from remitted deductions.*—In the case of all persons subject to this Act, being prisoners of war, whose pay and allowances have been forfeited under clause (*h*) of section 90 or clause (*a*) of section 91, but in respect of whom a remission has been made under section 97, it shall be lawful for proper provision to be made by the prescribed authorities out of such pay and allowances for any dependants of such persons, and

any such remission shall in that case be deemed to apply only to the balance thereafter remaining of such pay and allowances.

99. *Provision for dependants of prisoner of war from his pay and allowances.*—It shall be lawful for proper provision to be made by the prescribed authorities for any dependants of any person subject to this Act who is a prisoner of war or is missing, out of his pay and allowances.

100. *Period during which a person is deemed to be a prisoner of war.*—For the purposes of sections 98 and 99, a person shall be deemed to continue to be a prisoner of war until the conclusion of any inquiry into his conduct such as is referred to in section 96, and if he is cashiered or dismissed from the service in consequence of such conduct, until the date of such cashiering or dismissal.

CHAPTER IX

Arrest and Proceedings before Trial

101. *Custody of offenders.*—(*1*) Any person subject to this Act who is charged with an offence may be taken into military custody.

(*2*) Any such person may be ordered into military custody by any superior officer.

(*3*) An officer may order into military custody any officer, though he may be of a higher rank, engaged in a quarrel, affray or disorder.

102. *Duty of commanding officer in regard to detention.*—(*1*) It shall be the duty of every commanding officer to take care that a person under his command when charged with an offence is not detained in custody for more than forty-eight hours after the committal of such person into custody is reported to him, without the charge being investigated, unless investigation within that period seems to him to be impracticable having regard to the public service.

(*2*) The case of every person being detained in custody beyond a period of forty-eight hours, and the reason thereof, shall be reported by the commanding officer to the general or other officer to whom application would be made to convene a general or district court-martial for the trial of the person charged.

(*3*) In reckoning the period of forty-eight hours specified in sub-section (*1*), Sundays and other public holidays shall be excluded.

(*4*) Nothing contained in clauses (*1*) and (*2*) of Article 22 of the Constitution shall apply to any person who is taken into military custody under the provisions of this Act.

103. *Interval between committal and court-martial.*—In every case where any such person as is mentioned in section 101 and as is not on active service remains in such custody for a longer period than eight days, without a court-martial for his trial being ordered to assemble, a special report of the necessity for further delay shall be made by his commanding officer in the manner prescribed, and a similar report shall be forwarded at intervals of every eight days cribed, and a similar report shall be forwarded at intervals of every eight days until a court-martial is assembled or such person is released from custody.

104. *Arrest by civil authorities.*—Whenever any person subject to this Act, who is accused of any offence under this Act, is within the jurisdiction of any Magistrate or police officer, such Magistrate or police officer shall aid in the apprehension and delivery to military custody of such person upon receipt of a written application to that effect signed by his commanding officer.

105. *Capture of deserters.*—(*1*) Whenever any person subject to this Act deserts, the commanding officer of the corps, department or detachment to which he belongs, shall give written information of the desertion to such civil authorities as, in his opinion, may be able to afford assistance towards the

capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter in like manner as if he were a person for whose apprehension a warrant had been issued by a Magistrate, and shall deliver the deserter, when apprehended, into military custody.

(*2*) Any police officer may arrest without warrant any person reasonably believed to be subject to this Act, and to be a deserter or to be travelling without authority, and shall bring him without delay before the nearest Magistrate, to be dealt with according to law.

106. *Inquiry into absence without leave.*—(*1*) When any person subject to this Act has been absent from his duty without due authority for a period of thirty days, a court of inquiry shall, as soon as practicable, be assembled, and such court shall, on oath or affirmation administered in the prescribed manner, inquire respecting the absence of the person, and the deficiency, if any, in the property of the Government entrusted to his care, or in any arms, ammunition, equipment, instruments, clothing or necessaries; and if satisfied of the fact of such absence without due authority or other sufficient cause, the court shall declare such absence and the period thereof, and the said deficiency, if any, and the commanding officer of the corps or department to which the person belongs shall enter in the court-martial book of the corps or department a record of the declaration.

(*2*) If the person declared absent does not afterwards surrender or is not apprehended, he shall, for the purposes of this Act, be deemed to be a deserter.

107. *Provost-marshals.*—(*1*) Provost-marshals may be appointed by the Commander-in-Chief, or by any prescribed officer.

(*2*) The duties of a provost-marshal so appointed are to take charge of persons confined for any offence, to preserve good order and discipline, and to prevent breaches of the same by persons serving in, or attached to, the regular Army.

(*3*) A provost-marshal may at any time arrest and detain for trial any person subject to this Act who commits, or is charged with, an offence, and may also carry into effect any punishment to be inflicted in pursuance of the sentence awarded by a court-martial, or by an officer exercising authority under section 80 but shall not inflict any punishment on his own authority.

(*4*) For the purposes of sub-sections (*2*) and (*3*), a provost-marshal shall be deemed to include a provost-marshal appointed under any law for the time being in force relating to the government of the Navy or Air Force, and any person legally exercising authority under him or on his behalf.

CHAPTER X

COURTS-MARTIAL

108. *Kinds of courts-martial.*—For the purposes of this Act there shall be four kinds of courts-martial, that is to say,—

(*a*) general courts-martial;
(*b*) district courts-martial;
(*c*) summary general courts-martial; and
(*d*) summary courts-martial.

109. *Power to convene a general court-martial.*—A general court-martial may be convened by the Central Government or the Commander-in-Chief, or by any officer empowered in this behalf by warrant of the Commander-in-Chief.

110. *Power to convene a district court-martial.*—A district court-martial may be convened by an officer having power to convene a general court-martial, or by any officer empowered in this behalf by warrant of any such officer.

111. *Contents of warrants issued under sections* 109 *and* 110.—A warrant issued under section 109 or section 110 may contain such restrictions, reservations or conditions as the officer issuing it may think fit.

112. *Power to convene a summary general court-martial.*—The following authorities shall have power to convene a summary general court-martial, namely,—

(*a*) an officer empowered in this behalf by an order of the Central Government or of the Commander-in-Chief;

(*b*) on active service, the officer commanding the forces in the field, or any officer empowered by him in this behalf;

(*c*) an officer commanding any detached portion of the regular Army on active service when, in his opinion, it is not practicable, with due regard to discipline and the exigencies of the service, that an offence should be tried by a general court-martial.

113. *Composition of general court-martial.*—A general court-martial shall consist of not less than five officers, each of whom has held a commission for not less than three whole years and of whom not less than four are of a rank not below that of captain.

114. *Composition of district court-martial.*—A district court-martial shall consist of not less than three officers, each of whom has held a commission for not less than two whole years.

115. *Composition of summary general court-martial.*—A summary general court-martial shall consist of not less than three officers.

116. *Summary court-martial.*—(*1*) A summary court-martial may be held by the commanding officer of any corps, department or detachment of the regular Army, and he shall alone constitute the court.

(*2*) The proceedings shall be attended throughout by two other persons who shall be officers or junior commissioned officers or one of either, and who shall not as much be sworn or affirmed.

117. *Dissolution of courts-martial.*—(*1*) If a court-martial after the commencement of a trial is reduced below the minimum number of officers required by this Act, it shall be dissolved.

(*2*) If, on account of the illness of the judge advocate or of the accused before the finding, it is impossible to continue the trial, a court-martial shall be dissolved.

(*3*) The officer who convened a court-martial may dissolve such court-martial if it appears to him that military exigencies or the necessities of discipline render it impossible or inexpedient to continue the said court-martial.

(*4*) Where a court-martial is dissolved under this section, the accused may be tried again.

118. *Powers of general and summary general courts-martial.*—A general or summary general court-martial shall have power to try any person subject to this Act for any offence punishable therein and to pass any sentence authorised thereby.

119. *Powers of district courts-martial.*—A district court-martial shall have power to try any person subject to this Act other than an officer or a junior commissioned officer for any offence made punishable therein, and to pass any sentence authorised by this Act other than a sentence of death, transportation, or imprisonment for a term exceeding two years;

Provided that a district court-martial shall not sentence a warrant officer to imprisonment.

120. *Powers of summary courts-martial.*—(*1*) Subject to the provisions of sub-section (*2*), a summary court-martial may try any offence punishable under this Act.

(*2*) When there is no grave reason for immediate action and reference can without detriment to discipline be made to the officer empowered to convene a district court-martial or on active service a summary general court-martial for the trial of the alleged offender, an officer holding a summary court-martial shall not try without such reference any offence punishable under any of the sections 34, 37 and 69, or any offence against the officer holding the court.

(*3*) A summary court-martial may try any person subject to this Act and under the command of the officer holding the court, except an officer, junior commissioned officer or warrant officer.

(*4*) A summary court-martial may pass any sentence which may be passed under this Act, except a sentence of death or transportation, or of imprisonment for a term exceeding the limit specified in sub-section (*5*).

(*5*) The limit referred to in sub-section (*4*) shall be one year if the officer holding the summary court-martial is of the rank of lieutenant-colonel and upwards, and three months if such officer is below that rank.

121. *Prohibition of second trial.*—When any person subject to this Act has been acquitted or convicted of an offence by a court-martial or by a criminal court, or has been dealt with under any of the sections 80, 83, 84 and 85, he shall not be liable to be tried again for the same offence by a court-martial or dealt with under the said sections.

122. *Period of limitation for trial.*—(*1*) Except as provided by sub-section (*2*), no trial by court-martial of any person subject to this Act for any offence shall be commenced after the expiration of a period of three years from the date of such offence.

(*2*) The provision of sub-section (*1*) shall not apply to a trial for an offence of mutiny, desertion or fraudulent enrolment.

(*3*) In the computation of the period of time mentioned in sub-section (*1*), any time spent by such person as a prisoner of war, or in enemy territory, or in evading arrest after the commission of the offence, shall be excluded.

(*4*) No trial for an offence of desertion other than desertion on active service or of fraudulent enrolment shall be commenced if the person in question, not being an officer, has subsequently to the commission of the offence, served continuously in an exemplary manner for not less than three years with any portion of the regular Army.

(*5*) For the purposes of sub-section (*2*), mutiny means any of the offences mentioned in section 37.

123. *Liability of offender who ceases to be subject to Act.*—(*1*) Where an offence under this Act had been committed by any person while subject to this Act, and he has ceased to be so subject, he may be taken into and kept in military custody, and tried and punished for such offence as if he continued to be so subject.

(*2*) No such person shall be tried for an offence, unless his trial commences within six months after he had ceased to be subject to this Act :

Provided that nothing contained in this sub-section shall apply to the trial of any such person for an offence of mutiny, desertion or fraudulent enrolment

or shall affect the jurisdiction of a criminal court to try any offence triable by such court as well as by a court-martial.

(3) When a person subject to this Act is sentenced by a court-martial to transportation or imprisonment, this Act shall apply to him during the term of his sentence, though he is cashiered or dismissed from the regular Army, or has otherwise ceased to be subject to this Act, and he may be kept, removed, imprisoned and punished as if he continued to be subject to this Act.

(4) When a person subject to this Act is sentenced by a court-martial to death, this Act shall apply to him till the sentence is carried out.

124. *Place of trial.*—Any person subject to this Act who commits any offence against it may be tried and punished for such offence in any place whatever.

125. *Choice between criminal court and court-martial.*—When a criminal court and a court-martial have each jurisdiction in respect of an offence, it shall be in the discretion of the officer commanding the army, army corps, division or independent brigade in which the accused person is serving or such other officer as may be prescribed to decide before which court the proceedings shall be instituted, and, if that officer decides that they should be instituted before a court-martial, to direct that the accused person shall be detained in military custody.

126. *Power of criminal court to require delivery of offender.*—(1) When a criminal court having jurisdiction is of opinion that proceedings shall be instituted before itself in respect of any alleged offence, it may, by written notice, require the officer referred to in section 125 at his option, either to deliver over the offender to the nearest Magistrate to be proceeded against according to law, or to postpone proceedings pending a reference to the Central Government.

(2) In every such case the said officer shall either deliver over the offender in compliance with the requisition, or shall forthwith refer the question as to the court before which the proceedings are to be instituted for the determination of the Central Government, whose order upon such reference shall be final.

127. *Successive trials by a criminal court and court-martial.*—(1) A person convicted or acquitted by a court-martial may, with the previous sanction son convicted or acquitted by a court-martial may, with the previous sanction of the Central Government, be tried again by a criminal court for the same offence, or on the same facts.

(2) If a person sentenced by a court-martial under this Act or punished under any of the sections 80, 83, 84 or 85 is afterwards tried and convicted by a criminal court for the same offence, or on the same facts, that court shall, in awarding punishment, have regard to the punishment he may already have undergone for the said offence.

CHAPTER XI

Procedure of Courts-martial

128. *President.*—At every general, district or summary general court-martial the senior member shall sit as president.

129. *Judge Advocate.*—Every general court-martial shall, and every district or summary general court-martial may, be attended by a judge advocate, who shall be either an officer belonging to the department of the Judge Advocate General, or if no such officer is available, an officer approved of by the Judge Advocate General or any of his deputies.

130. *Challenges.*—(1) At all trials by general, district or summary general courts-martial, as soon as the court is assembled, the names of the president and

members shall be read over to the accused, who shall thereupon be asked whether he objects to being tried by any officer sitting on the court.

(2) If the accused objects to any such officer, his objection, and also the reply thereto of the officer objected to, shall be heard and recorded, and the remaining officers of the court shall, in the absence of the challenged officer decide on the objection.

(3) If the objection is allowed by one-half or more of the votes of the officers entitled to vote, the objection shall be allowed, and the member objected to shall retire, and his vacancy may be filled in the prescribed manner by another officer, subject to the same right of the accused to object.

(4) When no challenge is made, or when challenge has been made and disallowed, or the place of every officer successfully challenged has been filled by another officer to whom no objection is made or allowed, the court shall proceed with the trial.

131. *Oaths of member, judge advocate and witness.*—(1) An oath or affirmation in the prescribed manner shall be administered to every member of every court-martial and to the judge advocate before the commencement of the trial.

(2) Every person giving evidence before a court-martial shall be examined on oath or affirmation, and shall be duly sworn or affirmed in the prescribed form.

(3) The provisions of sub-section (2) shall not apply where the witness is a child under twelve years of age and the court-martial is of opinion that though the witness understands the duty of speaking the truth, he does not understand the nature of an oath or affirmation.

132. *Voting of members.*—(1) Subject to the provisions of sub-sections (2) and (3), every decision of a court-martial shall be passed by an absolute majority of votes; and where there is an equality of votes on either the finding or the sentence, the decision shall be in favour of the accused.

(2) No sentence of death shall be passed by a general court-martial without the concurrence of at least two-thirds of the members of the court.

(3) No sentence of death shall be passed by a summary general court-martial without the concurrence of all the members.

(4) In matters, other than a challenge or the finding or sentence, the president shall have a casting vote.

133. *General rule as to evidence.*—The Indian Evidence Act, 1872 (I of 1872), shall, subject to the provisions of this Act apply to all proceedings before a court-martial.

134. *Judicial notice.*—A court-martial may take judicial notice of any matter within the general military knowledge of the members.

135. *Summoning witnesses.*—(1) The convening officer, the president of a court-martial, the judge advocate or the commanding officer of the accused person, may, by summons under his hand, require the attendance, at a time and place to be mentioned in the summons, of any person either to give evidence or to produce any document or other thing.

(2) In the case of a witness amenable to military authority, the summons shall be sent to his commanding officer, and such officer shall serve it upon him accordingly.

(3) In the case of any other witness, the summons shall be sent to the Magistrate within whose jurisdiction he may be or reside, and such Magistrate

shall give effect to the summons as if the witness were required in the court of such Magistrate.

(4) When a witness is required to produce any particular document or other thing in his possession or power, the summons shall describe it with reasonable precision.

136. *Documents exempted from production.*—(1) Nothing in section 135 shall be deemed to affect the operation of sections 123 and 124 of the Indian Evidence Act, 1872 (I of 1872), or to apply to any letter, postcard, telegraph or other document in the custody of the postal or telegraph authorities.

(2) If any document in such custody is, in the opinion of any District Magistrate, Chief Presidency Magistrate, High Court or Court of Sessions, wanted for the purpose of any court-martial, such Magistrate or Court may require the postal or telegraph authorities, as the case may be to deliver such document to such person as such Magistrate or Court may direct.

(3) If any such document is, in the opinion of any other Magistrate or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the postal or telegraph authorities, as the case may be, to cause search to be made for and to detain such document pending the order of any such District Magistrate, Chief Presidency Magistrate or Court.

137. *Commissions for examination of witnesses.*—(1) Whenever, in the course of a trial by court-martial, it appears to the court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, in the circumstance of the case, would be unreasonable, such court may address the judge advocate general in order that a commission to take the evidence of such witness may be issued.

(2) The judge advocate general may then, if he thinks necessary, issue a commission to any District Magistrate or Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

(3) The Magistrate or officer to whom the commission is issued, or, if he is the District Magistrate, he or such Magistrate of the first class as he appoints in this behalf, shall proceed to the place where the witness is or shall summon the witness before him and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant-cases under the Code of Criminal Procedure, 1898 (Act V of 1898), or any corresponding law in force in an Acceding State.

(4) When the witness resides in a tribal area or in any place outside India, the commission may be issued in the manner specified in Chapter XL of the Code of Criminal Procedure, 1898 (Act V of 1898), or of any corresponding law in force in an Acceding State.

(5) In this and the next succeeding section, the expression "judge advocate general" includes a deputy judge advocate general.

138. *Examination of a witness on commission.*—(1) The prosecutor and the accused person in any case in which a commission is issued under section 137 may respectively forward any interrogatories in writing which the court may think relevant to the issue, and the Magistrate or officer executing the commission shall examine the witness upon such interrogatories.

(2) The prosecutor and the accused person may appear before such Magistrate or officer by counsel or, except in the case of an accused person in custody, in person, and may examine, cross-examine and re-examine, as the case may be, the said witness.

(3) After a commission issued under section 137 has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the judge advocate general.

(4) On receipt of a commission and deposition returned under sub-section (3), the judge advocate general shall forward the same to the court at whose instance the commission was issued or, if such court has been dissolved, to any other court convened for the trial of the accused person; and the commission, the return thereto and the deposition shall be open to inspection by the prosecutor and the accused person, and may, subject to all just exceptions, be read in evidence in the case by either the prosecutor or the accused, and shall form part of the proceedings of the court.

(5) In every case in which a commission is issued under section 137, the trial may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

139. *Conviction of offence not charged.*—(1) A person charged before a court-martial with desertion may be found guilty of attempting to desert or of being absent without leave.

(2) A person charged before a court-martial with attempting to desert may be found guilty of being absent without leave.

(3) A person charged before a court-martial with using criminal force may be found guilty of assault.

(4) A person charged before a court-martial with using threatening language may be found guilty of using insubordinate language.

(5) A person charged before a court-martial with any one of the offences specified in clauses (a), (b), (c) and (d) of section 52 may be found guilty of any other of these offences with which he might have been charged.

(6) A person charged before a court-martial with an offence punishable under section 69 may be found guilty of any other offence of which he might have been found guilty if the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), were applicable.

(7) A person charged before a court-martial with any offence under this Act, may, on failure of proof of an offence having been committed in circumstances involving a more severe punishment, be found guilty of the same offence as having been committed in circumstances involving a less severe punishment.

(8) A person charged before a court-martial with any offence under this Act may be found guilty of having attempted or abetted the commission of that offence, although the attempt or abetment is not separately charged.

140. *Presumption as to signatures.*—In any proceeding under this Act, any application, certificate, warrant, reply or other document purporting to be signed by an officer in the service of the Government shall, on production, be presumed to have been duly signed by the person by whom and in the character in which it purports to have been signed, until the contrary is shown.

141. *Enrolment paper.*—(1) Any enrolment paper purporting to be signed by an enrolling officer shall, in proceedings under this Act, be evidence of the person enrolled having given the answers to questions which he is therein represented as having given.

(2) The enrolment of such person may be proved by the production of the original or a copy of his enrolment paper purporting to be certified to be a true copy by the officer having the custody of the enrolment paper.

142. *Presumption as to certain documents.*—(*1*) A letter, return or other document respecting the service of any person in, or the cashiering, dismissal or discharge of any person from, any portion of the regular Army, or respecting the circumstances of any person not having served in, or belonged to, any portion of the Forces, if purporting to be signed by or on behalf of the Central Government or the Commander-in-Chief, or by any prescribed officer, shall be evidence of the facts stated in such letter, return or other document.

(*2*) An Army, Navy or Air Force List or Gazette purporting to be published by authority shall be evidence of the status and rank of the officers, junior commissioned officers or warrant officers therein mentioned, and of any appointment held by them and of the corps, battalion or arm or branch of the services to which they belong.

(*3*) Where a record is made in any regimental book in pursuance of this Act or of any rules made thereunder or otherwise in pursuance of military duty, and purports to be signed by the commanding officer or by the officer whose duty it is to make such record, such record shall be evidence of the facts therein stated.

(*4*) A copy of any record in any regimental book purporting to be certified to be a true copy by the officer having custody of such book shall be evidence of such record.

(*5*) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of any officer or other person subject to this Act, or any portion of the regular Army, or has been apprehended by such officer or person, a certificate purporting to be signed by such officer, or by the commanding officer of that portion of the regular Army, or by the commanding officer of the corps, department or detachment to which such person belongs, as the case may be, and stating the fact, date and place of such surrender or apprehension, and the manner in which he was dressed, shall be evidence of the matters so stated.

(*6*) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of, or has been apprehended by, a police officer not below the rank of an officer in charge of a police station, a certificate purporting to be signed by such police officer and stating the fact, date and place of such surrender or apprehension and the manner in which he was dressed shall be evidence of the matters so stated.

(*7*) Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government upon any matter or thing duly submitted to him for examination or analysis and report may be used as evidence in any proceeding under this Act.

143. *Reference by accused to Government officer.*—(*1*) If at any trial for desertion or absence without leave, overstaying leave or not rejoining when warned for service, the person tried states in his defence any sufficient or reasonable excuse for his unauthorised absence, and refers in support thereof to any officer in the service of the Government, or if it appears that any such officer is likely to prove or disprove the said statement in the defence, the Court shall address such officer and adjourn the proceedings until his reply is received.

(*2*) The written reply of any officer so referred to shall, if signed by him be received in evidence and have the same effect as if made on oath before the court.

(3) If the court is dissolved before the receipt of such reply, or if the court omits to comply with the provisions of this section, the convening officer may, at his discretion, annul the proceedings and order a fresh trial.

144. *Evidence of previous convictions and general character.*—(1) When any person subject to this Act has been convicted by a court-martial of any offence, such court-martial may inquire into, and receive and record evidence of any previous convictions of such person, either by a court-martial or by a criminal court, or any previous award of punishment under any of the sections 80, 83, 84 and 85, and may further inquire into and record the general character of such person and such other matters as may be prescribed.

(2) Evidence received under this section may be either oral, or in the shape of entries in, or certified extracts from, court-martial books or other official records; and it shall not be necessary to give notice before trial to the person tried that evidence as to his previous convictions or character will be received.

(3) At a summary court-martial the officer holding the trial may, if he thinks fit, record any previous convictions against the offender, his general character, and such other matters as may be prescribed, as of his own knowledge, instead of requiring them to be proved under the foregoing provisions of this section.

145. *Lunacy of accused.*—(1) Whenever, in the course of a trial by a court-martial, it appears to the court that the person charged is by reason of unsoundness of mind incapable of making his defence, or that he committed the act alleged but was by reason of unsoundness of mind incapable of knowing the nature of the act or knowing that it was wrong or contrary to law, the court shall record a finding accordingly.

(2) The president of the court, or, in the case of a summary court-martial, the officer holding the trial, shall forthwith report the case to the confirming officer, or to the authority empowered to deal with its finding under section 162, as the case may be.

(3) The confirming officer to whom the case is reported under sub-section (2) may, if he does not confirm the finding, take steps to have the accused person tried by the same or another court-martial for the offence with which he was charged.

(4) The authority to whom the finding of a summary court-martial is reported under sub-section (2), and a confirming officer confirming a finding in any case so reported to him shall order the accused person to be kept in custody in the prescribed manner and shall report the case for the orders of the Central Government.

(5) On receipt of a report under sub-section (4) the Central Government may order the accused person to be detained in a lunatic asylum or other suitable place of safe custody.

146. *Subsequent fitness of lunatic accused for trial.*—Where any accused person having been found by reason of unsoundness of mind to be incapable of making his defence, is in custody or under detention under section 145, the officer commanding the army, army corps, division or brigade within the area of whose command the accused is in custody or is detained, or any other officer prescribed in this behalf, may—

(a) if such person is in custody under sub-section (4) of section 145, on the report of a medical officer that he is capable of making his defence, or

(b) if such person is detained in a jail under sub-section (5) of section 145, on a certificate of the Inspector-General of Prisons, and if such person is detained in a lunatic asylum under the said sub-section on a certificate of any two or more of the visitors of such asylum that he is capable of making his defence,

take steps to have such person tried by the same or another court-martial for the offence with which he was originally charged or, if the offence is a civil offence, by a criminal court.

147. *Transmission to Central Government of orders under section* 146.—A copy of every order made by an officer under section 146 for the trial of the accused shall forthwith be sent to the Central Government.

148. *Release of lunatic accused.*—Where any person is in custody under sub-section (*4*) of section 145 or under detention under sub-section (*5*) of that section—

(*a*) if such person is in custody under the said sub-section (*4*), on the report of a medical officer, or

(*b*) if such person is detained under the said sub-section (*5*), on a certificate from any of the authorities mentioned in clause (*b*) of section 146 that, in the judgment of such officer or authority such person may be released without danger of his doing injury to himself or to any other person,

the Central Government may order that such person be released or detained in custody, or transferred to a public lunatic asylum if he has not already been sent to such an asylum.

149. *Delivery of lunatic accused to relatives.*—Where any relative or friend of any person who is in custody under sub-section (*4*) of section 145 or under detention under sub-section (*5*) of that section desires that he should be delivered to his care and custody, the Central Government may upon application by such relative or friend and on his giving security to the satisfaction of that Government that the person delivered shall be properly taken care of and prevented from doing injury to himself or any other person, and be produced for the inspection of such officer, and at such times and places, as the Central Government may direct, order such person to be delivered to such relative or friend.

150. *Order for custody and disposal of property pending trial.*—When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before a court-martial during a trial, the court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the trial, and if the property is subject to speedy or natural decay may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

151. *Order for disposal of property regarding which offence is committed.*—(*1*) After the conclusion of a trial before any court-martial, the court or the officer confirming the finding or sentence of such court-martial, or any authority superior to such officer, or, in the case of a court-martial whose finding or sentence does not require confirmation, the officer commanding the army, army corps, division or brigade within which the trial was held, may make such order as it or he thinks fit for the disposal by destruction, confiscation, delivery to any person claiming to be entitled to possession thereof, or otherwise, of any property or document produced before the court or in its custody, or regarding which any offence appears to have been committed or which has been used for the commission of any offence.

(*2*) Where any order has been made under sub-section (*1*) in respect of property regarding which an offence appears to have been committed, a copy of such order signed and certified by the authority making the same may, whether the trial was held within India or not, be sent to a Magistrate within whose jurisdiction such property for the time being is situated, and such Magistrate shall thereupon cause the order to be carried into effect as if it were an order passed by him under the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), or any corresponding law in force in an Acceding State.

(3) In this section the term "property" includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any person but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange whether immediately or otherwise.

152. *Powers of court-martial in relation to proceedings under this Act.*—Any trial by a court-martial under the provisions of this Act shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (Act XLV of 1860), and the court-martial shall be deemed to be a Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).

CHAPTER XII

Confirmation and Revision

153. *Finding and sentence not valid, unless confirmed.*—No finding or sentence of a general, district or summary general, court-martial shall be valid except so far as it may be confirmed as provided by this Act.

154. *Power to confirm finding and sentence of general court-martial.*—The findings and sentences of general courts-martial may be confirmed by the Central Government, the Commander-in-Chief or by any officer empowered in this behalf by warrant of the Commander-in-Chief.

155. *Power to confirm finding and sentence of district court-martial.*—The findings and sentences of district courts-martial may be confirmed by any officer having power to convene a general court-martial or by any officer empowered in this behalf by warrant of such officer.

156. *Limitation of powers of confirming authority.*—A warrant issued under section 154 or section 155 may contain such restrictions, reservations or conditions as the authority issuing it may think fit.

157. *Power to confirm finding and sentence of summary general court-martial.*—The findings and sentences of summary general courts-martial may be confirmed by the convening officer or if he so directs, by an authority superior to him.

158. *Power of confirming authority to mitigate, remit or commute sentences.*—(1) Subject to such restrictions, reservations or conditions as may be contained in any warrant issued under section 154 or section 155 and to the provision of sub-section (2), a confirming authority may, when confirming the sentence of a court-martial, mitigate or remit the punishment thereby awarded, or commute that punishment for any punishment or punishments lower in the scale laid down in section 71.

(2) A sentence of transportation shall not be commuted for a sentence of imprisonment for a term exceeding the term of transportation awarded by the court.

159. *Confirming of findings and sentences on board a ship.*—When any person subject to this Act is tried and sentenced by a court-martial while on board a ship, the finding and sentence so far as not confirmed and executed on board the ship, may be confirmed and executed in like manner as if such person had been tried at the port of disembarkation.

160. *Revision of finding or sentence.*—(1) Any finding or sentence of a court-martial which requires confirmation may be once revised by order of the

confirming authority and on such revision, the court, if so directed by the confirming authority, may take additional evidence.

(2) The court, on revision, shall consist of the same officers as were present when the original decision was passed, unless any of those officers are unavoidably absent.

(3) In case of such unavoidable absence the cause thereof shall be duly certified in the proceedings, and the court shall proceed with the revision, provided that, if a general court-martial, it still consists of five officers, or, if a summary general or district court-martial, of three officers.

161. *Finding and sentence of a summary court-martial.*—(1) Save as otherwise provided in sub-section (2), the finding and sentence of a summary court-martial shall not require to be confirmed, but may be carried out forthwith.

(2) If the officer holding the trial is of less than five years service, he shall not, except on active service, carry into effect any sentence until it has received the approval of an officer commanding not less than brigade.

162. *Transmission of proceedings of summary courts-martial.*—The proceedings of every summary court-martial shall without delay be forwarded to the officer commanding the division or brigade within which the trial was held, or to the prescribed officer; and such officer, or the Commander-in-Chief, or any officer empowered in this behalf by the Commander-in-Chief, may, for reasons based on the merits of the case, but not any merely technical grounds, set aside the proceedings or reduce the sentence to any other sentence which the court might have passed.

163. *Substitution of a valid finding or sentence for an invalid finding or sentence.*—(1) Where a finding of guilty by a court-martial, which has been confirmed, or which does not require confirmation, is found for any reason to be invalid or cannot be supported by the evidence, the authority which would have had power under section 179 to commute the punishment awarded by the sentence, if the finding had been valid, may substitute a new finding and pass a sentence for the offence specified or involved in such finding:

Provided that no such substitution shall be made unless such finding could have been validly made by the court-martial on the charge and unless it appears that the court-martial must have been satisfied of the facts establishing the said offence.

(2) Where a sentence passed by a court-martial which has been confirmed, or which does not require confirmation, not being a sentence passed in pursuance of a new finding substituted under sub-section (1), is found for any reason to be invalid, the authority referred to in sub-section (1) may pass a valid sentence.

(3) The punishment awarded by a sentence passed under sub-section (1) or sub-section (2) shall not be higher in the scale of punishments than, or in excess of, the punishment awarded by, the sentence for which a new sentence is substituted under this section.

(4) Any finding substituted, or any sentence passed, under this section shall, for the purposes of this Act and the rules made thereunder, have effect as if it were a finding or sentence, as the case may be, of a court-martial.

164. *Remedy against finding and sentence of court-martial.*—(1) Any person subject to this Act who consider himself aggrieved by a finding or sentence of a general, district or summary general court-martial may forward a petition, if before confirmation of such finding or sentence, to the authority or officer

empowered to confirm it, and if after confirmation to the Central Government, the Commander-in-Chief, or any prescribed officer, provided that such officer is superior in command to the one who confirmed such finding or sentence.

(2) Any person subject to this Act who considers himself aggrieved by a finding or sentence of a summary court-martial may forward a petition to the Central Government, the Commander-in-Chief or any officer empowered to act under section 162.

165. *Annulment of proceedings.*—The Central Government, the Commander-in-Chief or any prescribed officer may annul the proceedings of any court-martial on the ground that they are illegal or unjust.

CHAPTER XIII

Execution of Sentences

166. *Form of sentence of death.*—In awarding a sentence of death a court-martial shall, in its discretion, direct that the offender shall suffer death by being hanged by the neck until he be dead, or shall suffer death by being shot to death.

167. *Commencement of sentence of transportation or imprisonment.*—Whenever any person is sentenced by a court-martial under this Act to transportation or imprisonment, the term of his sentence shall, whether it has been revised or not, be reckoned to commence on the day on which the original proceedings were signed by the president or, in the case of a summary court-martial, by the court.

168. *Execution of sentence of transportation.*—Whenever any sentence of transportation is passed under this Act or whenever any sentence of death is commuted to transportation, the commanding officer of the person under sentence or such other officer as may be prescribed shall forward a warrant in the prescribed form to the officer in charge of the civil prison in which such person is to be confined and shall arrange for his despatch to such prison with the warrant.

169. *Execution of sentence of imprisonment.*—(1) Whenever any sentence of imprisonment is passed under this Act by a court-martial or whenever any sentence of death or transportation is commuted to imprisonment, the confirming officer or in case of a summary court-martial the officer holding the court or such other officer as may be prescribed, shall, save as otherwise provided in sub-sections (3) and (4), direct either that the sentence shall be carried out by confinement in a military prison or that it shall be carried out by confinement in a civil prison.

(2) When a direction has been made under sub-section (1) the commanding officer of the person under sentence or such other officer as may be prescribed shall forward a warrant in the prescribed form to the officer in charge of the prison in which such person is to be confined and shall arrange for his despatch to such prison with the warrant.

(3) In the case of a sentence of imprisonment for a period not exceeding three months and passed under this Act by a court-martial, the appropriate officer under sub-section (1) may direct that the sentence shall be carried out by confinement in military custody instead of in a civil or military prison.

(4) On active service, a sentence of imprisonment may be carried out by confinement in such place as the officer commanding the forces in the field may from time to time appoint.

170. *Temporary custody of offender.*—Where a sentence of transportation or imprisonment is directed to be undergone in a civil prison the offender may be kept in a military prison or in military custody or in any other fit place, till such time as it is possible to send him to a civil prison.

171. *Execution of sentence of imprisonment in special cases.*—Whenever, in the opinion of an officer commanding an army, army corps, division or independent brigade, any sentence or portion of a sentence of imprisonment cannot for special reasons, conveniently be carried out in a military prison or in military custody in accordance with the provisions of section 169 such officer may direct that such sentence or portion of sentence shall be carried out by confinement in any civil prison or other fit place.

172. *Conveyance of prisoner from place to place.*—A person under sentence of transportation or imprisonment may during his conveyance from place to place, or when on board ship, aircraft, or otherwise, be subjected to such restraint as is necessary for his safe conduct and removal.

173. *Communication of certain orders to prison officers.*—Whenever an order is duly made under this Act setting aside or varying any sentence, order or warrant under which any person is confined in a civil or military prison, a warrant in accordance with such order shall be forwarded by the officer making the order or his staff officer or such other person as may be prescribed to the officer in charge of the prison in which such person is confined.

174. *Execution of sentence of fine.*—When a sentence of fine is imposed by a court-martial under section 69 whether the trial was held within India or not, a copy of such sentence, signed and certified by the confirming officer, or where no confirmation is required, by the officer holding the trial may be sent to any Magistrate in India, and such Magistrate shall thereupon cause the fine to be recovered in accordance with the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), or any corresponding law in force in an Acceding State, for the levy of fines as if it were a sentence of fine imposed by such Magistrate.

175. *Establishment and regulation of military prisons.*—The Central Government may set apart any building or part of a building, or any place under its control, as a military prison for the confinement of persons sentenced to imprisonment under this Act.

176. *Informality or error in the order or warrant.*—Whenever any person is sentenced to transportation or imprisonment under this Act, and is undergoing the sentence in any place or manner in which he might be confined under a lawful order or warrant in pursuance of this Act, the confinement of such person shall not be deemed to be illegal only by reason of any informality or error in or as respects the order, warrant or other document, or the authority by which, or in pursuance whereof such person was brought into or is confined in any such place, and any such order, warrant or document may be amended accordingly.

177. *Power to make rules in respect of prisons and prisoners.*—The Central Government may make rules providing—

(*a*) for the government, management and regulation of military prisons;

(*b*) for the appointment, removal and powers of inspectors, visitors, governors and officers thereof;

(*c*) for the labour of prisoners undergoing confinement therein, and for enabling persons to earn, by special industry and good conduct, a remission of a portion of their sentence;

(*d*) for the safe custody of prisoners and the maintenance of discipline among them and the punishment, by personal correction, restraint or otherwise, of offences committed by prisoners;

(*e*) for the application to military prisons of any of the provisions of the Prisons Act, 1894 (IX of 1894), relating to the duties of officers of prisons and the punishment of persons not being prisoners.

178. *Restriction of rule-making power in regard to corporal punishment.*—Rules made under section 177 shall not authorise corporal punishment to be inflicted for any offence, nor render the imprisonment more severe than it is under the law for the time being in force relating to civil prisons.

CHAPTER XIV

Pardons, Remissions and Suspensions

179. *Pardon and remission.*—When any person subject to this Act has been convicted by a court-martial of any offence, the Central Government or the Commander-in-Chief or, in the case of a sentence, which he could have confirmed or which did not require confirmation, the officer commanding the army, army corps, division or independent brigade in which such person at the time of conviction was serving, or the prescribed officer may—

(*a*) either with or without conditions which the person sentenced accepts, pardon the person or remit the whole or any part of the punishment awarded; or

(*b*) mitigate the punishment awarded; or

(*c*) commute such punishment for any less punishment or punishments mentioned in this Act:

Provided that a sentence of transportation shall not be commuted for a sentence of imprisonment for a term exceeding the term of transportation awarded by the court; or

(*d*) either with or without conditions which the person sentenced accepts, release the person on parole.

180. *Cancellation of conditional pardon, release on parole or remission.*—(*1*) If any condition on which a person has been pardoned or released on parole or a punishment has been remitted is, in the opinion of the authority which granted the pardon, release or remission, not fulfilled, such authority may cancel the pardon, release or remission, and thereupon the sentence of the court shall be carried into effect as if such pardon, release or remission had not been granted.

(*2*) A person whose sentence of transportation or imprisonment is carried into effect under the provisions of sub-section (*1*) shall undergo only the unexpired portion of his sentence.

181. *Reduction of warrant officer or non-commissioned officer.*—When under the provisions of section 77 a warrant officer or a non-commissioned officer is deemed to be reduced to the ranks, such reduction shall, for the purpose of section 179 be treated as a punishment awarded by a sentence of a court-martial.

182. *Suspension of sentence of transportation or imprisonment.*—(*1*) Where a person subject to this Act is sentenced by a court-martial to transportation or imprisonment, the Central Government, the Commander-in-Chief or any officer empowered to convene a general or a summary general court-martial may suspend the sentence whether or not the offender has already been committed to prison or to military custody.

(*2*) The authority or officer specified in sub-section (*1*) may in the case of an offender so sentenced direct that, until the orders of such authority or officer have been obtained the offender shall not be committed to prison or to military custody.

(3) The powers conferred by sub-sections (1) and (2) may be exercised in the case of any such sentence which has been confirmed, reduced or commuted.

183. *Orders pending suspension.*—(1) Where the sentence referred to in section 182 is imposed by a court-martial other than a summary court-martial, the confirming officer may, when confirming the sentence, direct that the offender be not committed to prison or to military custody until the orders of the authority or officer specified in section 182 have been obtained.

(2) Where a sentence of imprisonment is imposed by a summary court-martial, the officer holding the trial or the officer authorised to approve of the sentence under sub-section (2) of section 161 may make the direction referred to in sub-section (1).

184. *Release on suspension.*—Where a sentence is suspended under section 182, the offender shall forthwith be released.

185. *Computation of period of suspension.*—Any period during which the sentence is under suspension shall be reckoned as part of the term of such sentence.

186. *Order after suspension.*—The authority or officer specified in section 182 may, at any time while a sentence is suspended, order—

(a) that the offender be committed to undergo the unexpired portion of the sentence, or

(b) that the sentence be remitted.

187. *Reconsideration of case after suspension.*—(1) Where a sentence has been suspended, the case may at any time, and shall at intervals of not more than four months, be reconsidered by the authority or officer specified in section 182, or by any general or other officer not below the rank of field officer duly authorised by the authority or officer specified in section 182.

(2) Where on such reconsideration by the officer so authorised it appears to him that the conduct of the offender since his conviction has been such as to justify a remission of the sentence, he shall refer the matter to the authority or officer specified in section 182.

188. *Fresh sentence after suspension.*—Where an offender, while a sentence on him is suspended under this Act, is sentenced for any other offence, then—

(a) if the further sentence is also suspended under this Act, the two sentences shall run concurrently;

(b) if the further sentence is for a period of three months or more and is not suspended under this Act, the offender shall also be committed to prison or military custody for the unexpired portion of the previous sentence, but both sentences shall run concurrently; and

(c) if the further sentence is for a period of less than three months and is not suspended under this Act, the offender shall be so committed on that sentence only, and the previous sentence shall, subject to any order which may be passed under section 186 or section 187, continue to be suspended.

189. *Scope of power of suspension.*—The powers conferred by sections 182 and 186 shall be in addition to and not in derogation of the power of mitigation, remission and commutation.

190. *Effect of suspension and remission on dismissal.*—(1) Where in addition to any other sentence the punishment of dismissal has been awarded by a court-martial, and such other sentence is suspended under section 182, then, such dismissal shall not take effect until so ordered by the authority or officer specified in section 182.

(2) If such other sentence is remitted under section 186, the punishment of dismissal shall also be remitted.

CHAPTER XV

RULES

191. *Power to make rules.*—(1) The Central Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of the power conferred by sub-section (1), the rules made thereunder may provide for—

(a) the removal, retirement, release or discharge from the service of persons subject to this Act;

(b) the amount and incidence of fines to be imposed under section 89;

(c) the specification of the punishments which may be awarded as field punishments under sections 75 and 80;

(d) the assembly and procedure of courts of inquiry, the recording of summaries of evidence and the administration of oaths or affirmations by such courts;

(e) the convening and constituting of courts-martial;

(f) the adjournment, dissolution and sitting of courts-martial;

(g) the procedure to be observed in trials by courts-martial and the appearance of legal practitioners thereat;

(h) the confirmation, revision and annulment of, and petitions against, the findings and sentences of courts-martial;

(i) the carrying into effect sentences of courts-martial;

(j) the forms of orders to be made under the provisions of this Act relating to courts-martial, transportation and imprisonment;

(k) the constitution of authorities to decide for what persons, to what amounts and in what manner, provision should be made for dependants under section 99, and the due carrying out of such decisions;

(l) the relative rank of the officers, junior commissioned officers, warrant officers, petty officers and non-commissioned officers of the regular Army, Navy and Air Force when acting together;

(m) any other matter directed by this Act to be prescribed.

192. *Power to make regulations.*—The Central Government may make regulations for all or any of the purposes of this Act other than those specified in section 191.

192. *Power to make regulations.*—The Central Government may make regulations for all or any of the purposes of this Act other than those specified in section 191.

194. *Repeals.*—The Acts and Ordinances mentioned in the Schedule are hereby repealed.

CHAPTER XVI

TRANSITORY PROVISIONS

195. *Definition of "British officer".*—(1) In this Chapter "British officer" means a person of non-Indian domicile holding a commission in His Majesty's Land Forces or in the Royal Marines or in the Territorial Army and serving in the regular Army.

(2) The expression "superior officer" in this Act shall be deemed to include a British officer.

196. *Powers of British officer.*—A British officer shall have all the powers conferred by this Act on an officer of corresponding rank or holding a corresponding appointment.

THE SCHEDULE

(*See* section 194.)

Year	No.	Short title	Extent of repeal
1911	VIII	The Indian Army Act, 1911.	The whole, except Chapter XII.
1920	XX	The Indian Army (Suspension of Sentences) Act, 1920.	The whole
1941	X	The Active Service Ordinance, 1941.	The whole
1943	XXXVI	The Prisoners of War (Forfeiture of Emoluments) Ordinance, 1943.	The whole

STATEMENT OF OBJECTS AND REASONS.

The need for a general revision of the three Acts, namely, the Indian Army Act, 1911, the Indian Navy Discipline Act, 1934 and the Indian Air Force Act, 1932, has been felt for some time past. Some of the provisions of the existing Acts were already becoming out of date and insufficient for modern requirements, but after the 15th August, 1947, the need for revision became imperative for obvious reasons. It was, therefore, decided to revise all the three Acts with a view to making them self-sufficient and complete codes in themselves. The object was to make them as closely similar in form and arrangement of matter as the special requirements of each service might demand.

2. Although the revision of the Army and the Air Force Acts has been completed, this has not been possible in the case of the Naval Act. The present Naval Discipline Act is modelled on the corresponding British Act which, due mainly to the peculiar traditions of the British Navy, is materially different in many respects from the British Army and Air Force Acts. The revision of the Naval Discipline Act has, therefore, proved a more difficult problem. In the United Kingdom, a special Committee has been appointed to examine the question of revision of the British Naval Act. It was felt that it would be an advantage to await the report of that Committee and benefit by its recommendations. The revision of the Naval Discipline Act has, therefore, been suspended for the present. It is expected that the Committee's report will be available within the next few months, after which the revision of the Naval Discipline Act will be taken up. It is, however, not considered necessary to delay the revision of the Army and Air Force Acts any longer and they are therefore being introduced during this session of the Legislature.

3. The main objects of the revision of the Army Act are—

(*a*) to make it self-sufficient by incorporating the relevant provisions from certain other related enactments;

(*b*) to adapt the existing provisions to suit the new constitutional set up and present day requirements; and

(*c*) on the one hand, to bridge the gap between the Army and the Civil Laws as far as possible in the matter of punishments for offences and, on the other, to eliminate the disparity between the corresponding provisions of the law governing the Army and the Air Force.

4. The following are some of the more important objects sought to be achieved :—

(*1*) The chapter on punishments required to be rationalised. The Indian Army Act, 1911 is, on the one hand, unduly severe in certain punishments and, on the other, inadequate in its enumeration of offences. It also differs considerably from the Indian Air Force Act, 1932, in regard to the scale of punishments for a number of offences. The maximum punishment as now prescribed in the draft Bills varies with each offence or group of offences as in the Indian Penal Code and other penal laws of the country and is in keeping with the gravity of the offence or offences. An attempt has also been made in the Bill to grade punishments according to the gravity of the offences in different conditions, punishments being naturally more severe, for instance, in the case of offences committed wilfully or while on active service.

(*2*) Provision has been made in the Bill for the Indian States forces becoming subject to the Army Act ; exclusion of aliens from service except with the consent of the Central Government ; grant of commissions to officers ; tenure of service at the pleasure of the Governor-General ; and safeguards against improper arrest and detention of accused persons before trial. Provisions have been made for minimising chances of injustice at Courts-martial and, at the same time, for enhancing the status and thereby the responsibility of these courts.

(*3*) While absolute uniformity is neither possible nor desirable, glaring inequalities have been removed where possible, from the Army and the Air Force Acts. The Bills have been made identical in form, arrangement and matter with necessary variations in terminology and with such special provisions as were found essential.

(*4*) The provisions of subsidiary enactments like the Indian Army (Suspension of Sentences) Act, 1920, and Ordinances Nos. XXXVI of 1943 and XXXVII of 1945 relating to penal deductions of pay and allowances of prisoners of war have been incorporated in the new Army Bill.

(*5*) Sections relating to the estates of deceased persons, deserters and lunatics in the Army and Air Force Acts have been omitted. These will form the subject of a separate Bill, common to both the Services.

BALDEV SINGH.

NEW DELHI ;
The 16th December, 1949.

The following Bills were introduced in the Constituent Assembly of India, (Legislative) on the 22nd December, 1949 :—

A. BILL NO. 84 OF 1949

A Bill to prevent the improper use of certain emblems and names for professional and commercial purposes.

WHEREAS it is expedient to prevent the improper use of certain emblems and names for professional and commercial purposes ;

It is hereby enacted as follows :—

1. *Short title, extent, application and commencement.*—(*1*) This Act may be called the Emblems and Names (Prevention of Improper Use) Act, 1949.

(*2*) It extends to all the Provinces of India and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt with in this Act, and applies to citizens of India, wherever they may be.

(*3*) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "emblem" means any emblem, seal, flag, insignia, coat-of-arms or pictorial representation specified in the Schedule;

(*b*) "competent authority" means any authority competent under any law for the time being in force to register any company, firm or other body of persons or any trade mark or design or to grant a patent;

(*c*) "name" includes any abbreviation of a name.

3. *Prohibition of improper use of certain emblems and names.*—Notwithstanding anything contained in any law for the time being in force, no person shall use, or continue to use, for the purpose of any trade, business, calling or profession, or in the title of any patent, or in any trade mark or design, any name or emblem specified in the Schedule or any colourable imitation thereof without the previous permission of the Central Government.

4. *Prohibition of registration of certain companies, etc.*—(*1*) Notwithstanding anything contained in any law for the time being in force, no competent authority shall,—

(*a*) register any company, firm or other body of persons which bears any name, or

(*b*) register a trade mark or design which bears any emblem or name, or

(*c*) grant a patent in respect of an invention which bears a title containing any emblem or name,

if the use of such name or emblem is in contravention of section 3.

(*2*) If any question arises before a competent authority whether any emblem is an emblem specified in the Schedule or a colourable imitation thereof, the competent authority may refer the question to the Central Government, and the decision of the Central Government thereon shall be final.

5. *Penalty.*—Any person who contravenes the provisions of section 3 shall be punishable with fine which may extend to two hundred rupees.

6. *Previous sanction for prosecution.*—No prosecution for any offence punishable under this Act shall be instituted, except with the previous sanction of the Central Government or of any officer authorised in this behalf by general or special order of the Central Government.

7. *Savings.*—Nothing in this Act shall exempt any person from any suit or other proceeding which might, apart from this Act, be brought against him.

8. *Power of the Central Government to amend the Schedule.*—The Central Government may, by notification in the official Gazette, add to or alter the Schedule, and any such addition or alteration shall have effect as if it had been made by this Act.

THE SCHEDULE

[*See* sections 2(*a*) and 3.]

1. The name, emblem or official seal of the United Nations Organization.

2. The name, emblem or official seal of the World Health Organization.

3. The Indian National Flag.

4. The name or pictorial representation of Mahatma Gandhi.

5. The official seal or emblem of the Government of India or of any Province or Acceding State, or any other insignia or coat-of-arms used by any such Government or by a Department of any such Government.

STATEMENT OF OBJECTS AND REASONS

The General Assembly of the United Nations Organisation recommended in 1946 that members of the United Nations should take necessary legislative or other appropriate measures to prevent the use, without proper authority, and in particular for commercial purposes, of the emblem, the official seal and the name of the United Nations and of the abbreviations of that name. A similar recommendation has since been received also from the World Health Organisation for prevention of the use of its name (and abbreviations), emblem and official seal. Instances have also come to light of the use in India (and abroad) of the Indian National Flag and emblem and of the names and pictorial representations of Mahatma Gandhi and other national leaders, for commercial and trade purposes and in a manner likely to offend the sentiments of the people. The provisions of the Indian Trade Marks Act, 1940, Indian Patents and Designs Act, 1911, Indian Merchandise Marks Act, 1889, and the Indian Companies Act, 1913, are not adequate to prevent these abuses. The Bill seeks to prevent the improper use of these names, emblems, etc., for the purpose of trade, business, calling, profession, patent or design, and to impose a penalty for misuse of emblems, etc., specified in the Schedule and empowers the Central Government to make additions and amendments in the Schedule, as and when necessary.

NEW DELHI;
The 9th December, 1949.

K. C. NEOGY.

A. BILL NO. 85 OF 1949.

A Bill to consolidate and amend the law relating to the government of the Air Force.

WHEREAS it is expedient to consolidate and amend the law ralating to the government of the Air Force;

It is hereby enacted as follows:—

CHAPTER I

PRELIMINARY

1. *Short title and commencement.*—(*1*) This Act may be called the Air Force Act, 1949.

(*2*) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

2. *Persons subject to this Act.*—The following persons shall be subject to this Act wherever they may be, namely:—

(*a*) officers and warrant officers of the Air Force;

(*b*) persons enrolled under this Act;

(*c*) persons belonging to the Indian Air Force Volunteer Reserve in the circumstances specified in section 3 of the Indian Air Force Volunteer Reserve (Discipline) Act, 1939 (XXXVI of 1939);

(*d*) persons not otherwise subject to air force law, who, on active service, in camp, on the march, or at any frontier post specified by the Central Government by notification in this behalf, are employed by, or are in the service of, or are followers of, or accompany any portion of the Air Force.

3. *Termination of application of the Act.*—Every person subject to this Act shall remain so subject until duly retired, discharged, released, removed, dismissed or cashiered from the service.

4. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(*i*) "active service", as applied to a person subject to this Act, means the time during which such person—

(*a*) is attached to, or forms part of, a force which is engaged in operations against an enemy, or

(*b*) is engaged in air force operations in, or is on the line of march to, a country, or place wholly or partly occupied by an enemy, or

(*c*) is in military occupation of any foreign country;

(*ii*) "aircraft" includes aeroplanes, balloons, kite balloons, airships, gliders or other machines for flying;

(*iii*) "aircraft material" includes any engines, fittings, guns, gear, instruments or apparatus for use in connection with aircraft, and any of its components and accessories and petrol oil, and any other substance used for providing motive power for planes;

(*iv*) "Air Force" means officers and airmen who by their commission, warrant, terms of enrolment or otherwise, are liable to render continuously for a term air force service to the Union in every part of the world or any specified part of the world, including persons belonging to the Indian Air Force Volunteer Reserve when called out on permanent service;

(*v*) "air force custody" means the arrest or confinement of a person according to the usages of the service and includes military or naval custody;

(*vi*) "air force law" means the law enacted by this Act and the rules made thereunder;

(*vii*) "air force reward" includes any gratuity or annuity for long service or good conduct, any good conduct pay, good service pay or pension, and any other air force pecuniary reward;

(*viii*) "airman" means any person subject to this Act other than an officer;

(*ix*) "air officer" means any officer of the Air Force above the rank of group captain;

(*x*) "air signal" means any signal intended for the guidance of aircraft, whether given by flag, ground signal, light, wind indicator or in any manner whatsoever;

(*xi*) "civil offence" means an offence which is triable by a criminal court;

(*xii*) "Commander-in-Chief" means the officer commanding-in-chief the Air Force;

(*xiii*) "commanding officer," used in relation to a person subject to this Act, means the officer for the time being in command of the unit or detachment to which such person belongs or is attached;

(*xiv*) "court-martial" means a court-martial held under this Act;

(*xv*) "criminal court" means a court of ordinary criminal justice in any part of India, other than the State of Jammu and Kashmir;

(*xvi*) "enemy" includes all armed mutineers, armed rebels, armed rioters, pirates and any person in arms against whom it is the duty of any person subject to air force law to act;

(*xvii*) "the Forces" means the regular Army, Navy and Air Force or any part of any one or more of them;

(*xviii*) "non-commissioned officer" means a non-commissioned officer or acting non-commissioned officer of the Air Force or of the Indian Air Force Volunteer Reserve who is for the time being subject to this Act;

(*xix*) "notification" means a notification published in the official Gazette;

(*xx*) "offence" means any act or omission punishable under this Act, and includes a civil offence, as hereinbefore defined;

(*xxi*) "officer" means a person commissioned, gazetted or in pay as an officer in the Air Force, and includes—

(*a*) an officer holding His Majesty's Commission in the Air Force;

(*b*) an officer of the Indian Air Force Volunteer Reserve who is for the time being subject to this Act;

(*c*) in relation to a person subject to this Act when serving under such conditions as may be prescribed, an officer of the regular Army or the Navy;

but does not include a junior commissioned officer, warrant officer, petty officer or non-commissioned officer;

(*xxii*) "prescribed" means prescribed by rules made under this Act;

(*xxiii*) "provost-marshal" includes any of his deputies or assistants or any other person legally exercising authority under him or on his behalf;

(*xxiv*) "regulation" includes a regulation made under this Act;

(*xxv*) "superior officer", when used in relation to a person subject to this Act, includes a warrant officer and a non-commissioned officer, and as regards persons placed under his orders, an officer, junior commissioned officer, warrant officer, petty officer and non-commissioned officer of the regular Army or the Navy;

(*xxvi*) "unit" includes—

(*a*) any body of officers and airmen for which a separate authorised establishment exists;

(*b*) any separate body of persons subject to this Act employed on any service and not attached to a unit as aforesaid;

(*c*) any other separate body of persons composed wholly or partly of persons subject to this Act, and specified as a unit by the Central Government;

(*xxvii*) "warrant officer" means a person appointed, gazetted or in pay as a warrant officer of the Air Force and includes an acting warrant officer, a master warrant officer, and a warrant officer of the Indian Air Force Volunteer Reserve who is for the time being subject to this Act;

(*xxviii*) all words and expressions used herein and defined in the Indian Penal Code (Act XLV of 1860) and not hereinbefore defined, shall be deemed to have meanings respectively assigned to them by that Code.

CHAPTER II

SPECIAL PROVISIONS FOR THE APPLICATION OF ACT IN CERTAIN CASES

5. *Application of Act to certain forces under the Central Government.*—(*1*) The Central Government may, by notification, apply all or any of the provisions of this Act to any force raised and maintained in India under the authority of that Government and suspend the operation of any other enactment for the time being applicable to the said force.

(*2*) The provisions of this Act so applied shall have effect in respect of persons belonging to the said force as they have effect in respect of persons subject to this Act holding in the Air Force the same or equivalent rank as the aforesaid persons hold for the time being in the said force.

(*3*) The provisions of this Act so applied shall also have effect in respect of persons who are employed by, or are in the service of, or are followers of, or accompany any portion of the said force as they have effect in respect of persons subject to this Act under clause (*d*) of section 2.

(*4*) While any of the provisions of this Act apply to the said force, the Central Government may, by notification, direct by what authority any jurisdiction, powers or duties incident to the operation of these provisions shall be exercised or performed in respect of the said force.

6. *Special provision as to rank in certain cases.*—(*1*) The Central Government may, by notification, direct that any persons or class of persons subject to this Act under clause (*d*) of section 2, shall be so subject as officers, warrant officers or non-commissioned officers, and may authorise any officer to give a like direction and to cancel such direction.

(*2*) All persons subject to this Act other than officers, warrant officers and non-commissioned officers shall, if they are not persons in respect of whom a notification or direction under sub-section (*1*) is in force, be deemed to be of a rank inferior to that of a non-commissioned officer.

7. *Commanding officer of persons subject to air force law under clause* (*d*) *of section* 2.—(*1*) Every person subject to this Act, under clause (*d*) of section 2, shall, for the purposes of this Act, be deemed to be under the commanding officer of the unit, or detachment, if any, to which he is attached, and if he is not so attached under the command of any officer who may for the time being be named as his commanding officer by the officer commanding the force with which such person may for the time being be serving, or of any other prescribed officer, or, if no such officer is named or prescribed, under the command of the said officer commanding the force.

(*2*) An officer commanding a force shall not place a person subject to this Act under clause (*d*) of section 2 under the command of an officer of official rank inferior to that of such person if there is present at the place where such person is any officer of higher rank under whose command he can be placed.

8. *Officer exercising powers in certain cases.*—(*1*) Whenever persons subject to this Act are serving under an officer commanding any air force formation not in this section specifically named, and being, in the opinion of the Central Government, not less than a Squadron, the said Government may prescribe the officer by whom the powers which, under this Act, may be exercised by officers commanding Groups, Wings and Squadrons shall, as regards such persons, be exercised.

(*2*) The Central Government may confer such powers either absolutely, or subject to such restrictions, reservations, exceptions and conditions as it may think fit.

9. *Power to declare persons to be on active service.*—Notwithstanding anything contained in clause (*i*) of section 4, the Central Government may, by notification, declare that any persons or class of persons subject to this Act shall, with reference to any area in which they may be serving or with reference to any provision of this Act or of any other law for the time being in force, be deemed to be on active service within the meaning of this Act.

CHAPTER III

Commission, Appointment and Enrolment

10. *Commission and appointment.*—The Governor-General may grant, to such person as he thinks fit a commission as an officer or appoint any person as a warrant officer of the Air Force;

11. *Ineligibility of aliens for enrolment.*—No person who is not a citizen of India shall, except with the consent of the Central Government signified in writing, be enrolled in the Air Force :

Provided that nothing contained in this section shall bar the enrolment of the subjects of Nepal in the Air Force.

12. *Procedure before enrolling officer.*—Upon the appearance before the prescribed enrolling officer of any person desirous of being enrolled, the enrolling officer shall read and explain to him, or cause to be read and explained to him in his presence, the conditions of the service for which he is to be enrolled; and shall put to him the questions set forth in the prescribed form of enrolment, and shall, after having cautioned him that if he makes a false answer to any such question he will be liable to punishment under this Act, record or cause to be recorded his answer to each such question.

13. *Mode of enrolment.*—If, after complying with the provisions of section 12, the enrolling officer is satisfied that the person desirous of being enrolled fully understands the questions put to him and consents to the conditions of service, and if such officer perceives no impediment, he shall sign and shall also cause such person to sign the enrolment paper, and such person shall thereupon be deemed to be enrolled.

14. *Validity of enrolment.*—Every person who has for the space of three months been in receipt of pay as a person enrolled under this Act and been borne on the rolls of any unit shall be deemed to have been duly enrolled, and shall not be entitled to claim his discharge on the ground of any irregularity or illegality in his enrolment or on any other ground whatsoever; and if any person, in receipt of such pay and borne on the rolls as aforesaid, claims his discharge before the expiry of three months from his enrolment, no such irregularity or illegality or other ground shall, until he is discharged in pursuance of his claim, affect his position as an enrolled person under this Act or invalidate any proceedings, act or thing taken or done prior to his discharge.

15. *Persons to be attested.*—The following persons shall be attested namely :—

(*a*) all persons enrolled as combatants;

(*b*) all persons selected to hold a non-commissioned or acting non-commissioned rank; and

(*c*) all other enrolled persons prescribed by the Central Government.

16. *Mode of attestation.*—(*1*) When a person who is to be attested is reported fit for duty, or has completed the prescribed period of probation, an oath or affirmation shall be administered to him in the prescribed form by his commanding officer in front of his unit or such portion thereof as may be present, or by any other prescribed person.

(*2*) The form of oath or affirmation prescribed under this section shall contain a promise that the person to be attested will be faithful to the Union, and that he will serve in the Air Force and go wherever he is ordered by land, sea or air, and that he will obey all commands of any officer set over him, even to the peril of his life.

(*3*) The fact of an enrolled person having taken the oath or affirmation directed by this section to be taken shall be entered on his enrolment paper, and authenticated by the signature of the officer administering the oath or affirmation.

17. *Application of this Act to persons governed by the Indian Air Force Act, 1932.*—Any person, holding His Majesty's commission or appointed as a warrant officer or attested or enrolled in the Indian Air Force at the date of commencement of this Act shall be deemed to have been commissioned as an officer or appointed as a warrant officer, or attested or enrolled, as the case may be, in the Air Force.

CHAPTER IV

Conditions of Service

18. *Tenure of service under the Act.*—Every person subject to this Act shall hold office during the pleasure of the Governor-General.

19. *Termination of service by Central Government.*—The Central Government may dismiss, or remove from the service any person subject to this Act.

20. *Dismissal, removal or reduction by Commander-in-Chief and other officers.*—(*1*) The Commander-in-Chief may dismiss or remove from the service any person subject to this Act other than an officer.

(*2*) The Commander-in-Chief may reduce to a lower grade or rank or the ranks, any warrant officer or any non-commissioned officer.

(*3*) An officer having power not less than a group commander or equivalent commander or any prescribed officer may dismiss or remove from the service any person serving under his command other than an officer or a warrant officer.

(*4*) On active service, an officer commanding the air forces in the field may reduce to a lower rank or to the ranks any warrant officer or non-commissioned officer under his command.

(*5*) The Commander-in-Chief or an officer specified in sub-section (*3*) may reduce to a lower class in the ranks any airman other than a warrant officer or non-commissioned officer.

(*6*) The commanding officer of an acting non-commissioned officer may order him to revert to his substantive rank as a non-commissioned officer, or if he has no such substantive rank, to the ranks.

21. *Restrictions of certain fundamental rights in their application to persons subject to this Act.*—Notwithstanding anything contained in the Constitution and save as may be otherwise provided in any rules made by the Central Government in this behalf, any person subject to this Act shall not—

(*a*) be a member of, or be associated in any way with, any trade union, labour union or other similar organisation;

(*b*) be a member of, or be associated in any way with, any society, institution, association or other body of persons which is not recognised as part of the Air Force;

(*c*) address any meeting, or take part in any demonstration, organised by any body of persons for any political or other purposes;

(*d*) communicate with the press or publish or cause to be published any book, letter or other document, except with the previous permission of the Central Government or of any officer specified in this behalf by the Central Government.

22. *Retirement, release or discharge.*—Any person subject to this Act may be retired, released or discharged from the service by such authority and in such manner as may be prescribed.

23. *Certificate on termination of service.*—Every warrant officer, or enrolled person who is dismissed, removed, discharged, retired or released from the service shall be furnished by his commanding officer with a certificate, in the language which is the mother tongue of such person and also in the English language setting forth—

(*a*) the authority terminating his service;

(*b*) the cause for such termination; and

(*c*) the full period of his service in the Air Force.

24. *Discharge or dismissal when out of India.*—(*1*) Any person enrolled under this Act who is entitled under the conditions of his enrolment to be discharged, or whose discharge is ordered by competent authority, and who when he is so entitled or ordered to be discharged, is serving out of India, and requests to be sent to India, shall, before being discharged, be sent to India with all convenient speed.

(*2*) Any person enrolled under this Act who is dismissed from the service and who, when he is so dismissed, is serving out of India, shall be sent to India with all convenient speed.

(*3*) Where any such person as is mentioned in sub-section (*2*) is sentenced to dismissal combined with any other punishment, such other punishment, or, in the case of a sentence of transportation, imprisonment or detention, a portion of such sentence, may be inflicted before he is sent to India.

(*4*) For the purposes of this section, the word "discharge" shall include release, and the word "dismissal" shall include removal.

CHAPTER V

Service Privileges

25. *Authorised deductions only to be made from pay.*—The pay of every person subject to this Act due to him as such under any regulation, for the time being in force, shall be paid without any deduction other than the deductions authorised by or under this or any other Act.

26. *Remedy of aggrieved airmen.*—(*1*) Any airman who deems himself wronged by any superior or other officer, may, if not attached to a unit or detachment, complain to the officer under whose command or orders he is serving; and may, if attached to a unit or detachment, complain to the officer commanding the same.

(*2*) When the officer complained against is the officer to whom any complaint should, under sub-section (*1*), be preferred, the aggrieved airman may complain to such officer's next superior officer, and if he thinks himself wronged by such superior officer, he may complain to the Commander-in-Chief.

(*3*) Every officer receiving any such complaint shall make as complete an investigation into it as may be possible for giving full redress to the complainant; or, when necessary, refer the complaint to superior authority.

(4) Every such complaint shall be preferred in such manner as may from time to time be specified by proper authority.

(5) A decision by the Commander-in-Chief under sub-section (2) shall be final.

27. *Remedy of aggrieved officers.*—Any officer who deems himself wronged by his commanding officer or any superior officer and who on due application made to his commanding officer does not receive the redress to which he considers himself entitled, may complain to the Central Government in such manner as may from time to time be specified by proper authority.

28. *Immunity from attachment.*—The arms, clothes, equipment, accoutrements or necessaries of any person subject to this Act, shall not be seized, and the pay and allowances of any such person or any part thereof shall not be attached, by direction of any civil or revenue court or any revenue officer, in satisfaction of any decree or order enforceable against him.

29. *Immunity from arrest for debt.*—(1) No person subject to this Act shall, so long as he belongs to the Forces, be liable to be arrested for debt under any process issued by, or by the authority of, any civil or revenue court or revenue officer.

(2) The judge of any such court or the said officer may examine into any complaint made by such person or his superior officer of the arrest of such person contrary to the provisions of this section, and may, by warrant under his hand, discharge the person, and award reasonable costs to the complainant, who may recover those costs in like manner as he might have recovered costs awarded to him by a decree against the person obtaining the process.

(3) For the recovery of such costs no court-fee shall be payable by the complainant.

30. *Immunity of persons attending courts-martial from arrest.*—(1) No president or member of a court-martial, no judge advocate, no party to any proceeding before a court-martial, or his legal practitioner or agent, and no witness acting in obedience to a summons to attend a court-martial, shall while proceeding to, attending, or returning from, a court-martial, be liable to arrest under civil or revenue process.

(2) If any such person is arrested under any such process, he may be discharged by order of the court-martial.

31. *Privileges of reservists.*—Every person belonging to the Air Force Reserve, shall, when called out for, or engaged in or returning from, training or service, be entitled to all the privileges accorded by sections 28 and 29 to a person subject to this Act.

32. *Priority in respect of Air Force personnel's litigation.*—(1) On the presentation to any court by or on behalf of any person subject to this Act of a certificate, from the proper air force authority, of leave of absence having been granted to or applied for by him for the purpose of prosecuting or defending any suit or other proceeding in such court, the court shall, on the application of such person, arrange, so far as may be possible, for the hearing and final disposal of such suit or other proceeding within the period of the leave so granted or applied for.

(2) The certificate from the proper air force authority shall state the first and last day of the leave or intended leave, and set forth a description of the case with respect to which the leave was granted or applied for.

(3) No fee shall be payable to the court in respect of the presentation of any such certificate, or of any application by or on behalf of any such person, for priority for the hearing of his case.

(4) Where the court is unable to arrange for the hearing and final disposal of the suit or other proceeding within the period of such leave or intended leave as aforesaid, it shall record its reasons for its inability to do so, and shall cause a copy thereof to be furnished to such person on his application without any payment whatever by him in respect either of the application for such copy or of the copy itself.

(5) If in any case a question arises as to the proper air force authority qualified to grant such certificate as aforesaid, such question shall be at once referred by the court to an officer having power not less than a group commander or equivalent commander whose decision shall be final.

33. *Saving of rights and privileges under other laws.*—The rights and privileges specified in the preceding sections of this Chapter shall be in addition to any others conferred on persons subject to this Act or on members of the regular Army, Navy and Air Force generally by any other law for the time being in force.

CHAPTER VI

OFFENCES

34. *Offences in relation to the enemy and punishable with death.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) shamefully abandons or delivers up any garrison, fortress, post, place or guard, committed to his charge, or which it is his duty to defend, or uses any means to compel or induce any commanding officer or other person to commit the said act; or

(*b*) intentionally uses any means to compel or induce any person subject to military, naval or air force law to abstain from acting against the enemy, or to discourage such person from acting against the enemy; or

(*c*) in the presence of the enemy, shamefully casts away his arms, ammunition, tools or equipment or misbehaves in such manner as to show cowardice; or

(*d*) treacherously holds correspondence with, or communicates intelligence to, the enemy or any person in arms against the Union; or

(*e*) directly or indirectly assists the enemy with money, arms, ammunition, stores or supplies; or

(*f*) treacherously or through cowardice sends a flag of truce to the enemy; or

(*g*) in time of war or during any air force operation, intentionally occasions a false alarm in action, camp, or quarters, or spreads report calculated to create alarm or despondency; or

(*h*) in time of action leaves his commanding officer or his post guard, piquet, patrol or party without being regularly relieved or without leave; or

(*i*) having been made a prisoner of war, voluntarily serves with or aids the enemy; or

(*j*) knowingly harbours or protects an enemy not being a prisoner; or

(*k*) being a sentry in time of war or alarm, sleeps upon his post or is intoxicated; or

(*l*) knowingly does any act calculated to imperil the success of the military, naval or air forces of India or any forces co-operating therewith or any part of such forces; or

(*m*) treacherously or shamefully causes the capture or destruction by the enemy of any aircraft belonging to the Forces; or

(*n*) treacherously uses any false air signal or alters or interferes with any air signal; or

(*o*) when ordered by his superior officer or otherwise under orders to carry out any air force operations, treacherously or shamefully fails to use his utmost exertions to carry such orders into effect;

shall, on conviction by court-martial, be liable to suffer death or such less punishment as is in this Act mentioned.

35. *Offences in relation to the enemy and not punishable with death.*—Any person subject to this Act who commits any of the following offences that is to say,—

(*a*) is taken prisoner, by want of due precaution, or through disobedience of orders, or wilful neglect of duty, or having been taken prisoner, fails to rejoin his service when able to do so; or

(*b*) without due authority holds correspondence with or communicates intelligence to the enemy; or having come by the knowledge of any such correspondence or communication wilfully omits to discover it immediately to his commanding or other superior officer; or

(*c*) without due authority sends a flag of truce to the enemy; or

(*d*) negligently causes the capture or destruction by the enemy of any aircraft belonging to the Government; or

(*e*) when ordered by his superior officer, or otherwise under orders to carry out any warlike operations in the air, negligently or through other default fails to use his utmost exertions to carry such orders into effect;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

36. *Offences punishable more severely on active service than at other times.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) forces a safeguard, or forces or uses criminal force to a sentry; or

(*b*) breaks into any house or other place in search of plunder; or

(*c*) being a sentry sleeps upon his post, or is intoxicated; or

(*d*) without orders from his superior officer leaves his guard, piquet, patrol or post; or

(*e*) intentionally or through neglect occasions a false alarm in camp or quarters; or spreads reports calculated to create unnecessary alarm or despondency; or

(*f*) makes known the parole, watchword or countersign to any person not entitled to receive it; or knowingly gives a parole, watchword or countersign different from what he received; or

(*g*) without due authority alters or interferes with any air signal;

shall, on conviction by court-martial,

if he commits any such offence when on active service, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

if he commits any such offence when not on active service, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

37. *Mutiny.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) begins, incites, causes, or conspires with any other persons to cause, any mutiny in the military, naval or air forces of India or any forces co-operating therewith; or

(*b*) joins in any such mutiny; or

(*c*) being present at any such mutiny, does not use his utmost endeavours to suppress the same; or

(*d*) knowing or having reason to believe in the existence of any such mutiny, or of any intention to commit such mutiny or any such conspiracy, does not, without delay, give information thereof to his commanding or other superior officer; or

(*e*) endeavours to seduce any person in the military, naval or air forces of India from his duty or allegiance to the Union;

shall, on conviction by court-martial, be liable to suffer death or such less punishment as is in this Act mentioned.

38. *Desertion and aiding desertion.*—(*1*) Any person subject to this Act who deserts or attempts to desert the service shall on conviction by court-martial,

if he commits the offence on active service or when under orders for active service, be liable to suffer death or such less punishment as is in this Act mentioned; and

if he commits the offence under any other circumstances, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

(*2*) Any person subject to this Act who, knowingly harbours any such deserter shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

(*3*) Any person subject to this Act, who, being cognizant of any desertion or attempt at desertion of a person subject to this Act, does not forthwith give notice to his own or some other superior officer, or take any steps in his power to cause such person to be apprehended, shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

39. *Absence without leave.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) absents himself without leave; or

(*b*) without sufficient cause overstays leave granted to him; or

(*c*) being on leave of absence and having received information from proper authority that any unit or detachment, to which he belongs, has been ordered on active service, fails, without sufficient cause, to rejoin without delay; or

(*d*) without sufficient cause fails to appear at the time fixed, at the parade or place appointed for exercise or duty; or

(*e*) when on parade, or on the line of march, without sufficient cause or without leave from his superior officer, quits the parade or line of march; or

(*f*) when in camp or elsewhere, is found beyond any limits fixed, or in any place prohibited, by any general, local or other order, without a pass or written leave from his superior officer; or

(*g*) without leave from his superior officer or without due cause, absents himself from any school when duly ordered to attend there;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

40. *Striking or threatening superior officer.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) uses criminal force to, or assaults his superior officer; or

(*b*) uses threatening or insubordinate language to such officer;

shall, on conviction by court-martial,

if such officer is at the time in the execution of his office or, if the offence is committed on active service, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

in other cases, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

41. *Disobedience to superior officer.*—(*1*) Any person subject to this Act who disobeys in such manner as to show a wilful defiance of authority any lawful command given personally by his superior officer in the execution of his office whether the same is given orally; or in writing or by signal or otherwise shall on conviction by court-martial be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

(*2*) Any person subject to this Act who disobeys any lawful command given by his superior officer shall, on conviction by court-martial,

if he commits such offence on active service, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

if he commits such offence not on active service, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

42. *Insubordination and obstruction.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) being concerned in any quarrel, affray, or disorder, refuses to obey any officer, though of inferior rank, who orders him into arrest, or uses criminal force to or assaults any such officer; or

(*b*) uses criminal force to, or assaults any person, whether subject to this Act or not, in whose custody he is lawfully placed, and whether he is or is not his superior officer; or

(*c*) resists an escort whose duty it is to apprehend him or to have him in charge; or

(*d*) breaks out of barracks, camp or quarters; or

(*e*) neglects to obey any general, local or other order; or

(*f*) impedes the provost-marshal or any person lawfully acting on his behalf or when called upon, refuses to assist in the execution of his duty a provost-marshal or any person lawfully acting on his behalf; or

(*g*) uses criminal force to or assaults any person bringing provisions or supplies to the Forces ; shall,

on conviction by court-martial, be liable to suffer imprisonment for a term which may extend, in the case of the offences specified in clauses (*d*) and (*e*) to two years, and in the case of the offences specified in the other clauses to ten years, or such less punishment as is in this Act mentioned.

43. *Fraudulent enrolment.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) without having obtained a regular discharge from the Air Force or otherwise fulfilled the conditions enabling him to enrol or enter, enrols himself in, or enters the said force or any part of the military or the naval forces of India ; or

(*b*) is concerned in the enrolment in any part of the Forces, of any person when he knows or has reason to believe such person to be so circumstanced that by enrolling he commits an offence against this Act ;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

44. *False answers on enrolment.*—Any person having become subject to this Act who is discovered to have made at the time of enrolment a wilfully false answer to any question set forth in the prescribed form of enrolment which has been put to him by the enrolling officer before whom he appears for the purpose of being enrolled, shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

45. *Unbecoming conduct.*—Any officer or warrant officer who behaves in a manner unbecoming his position and the character expected of him shall, on conviction by court-martial, if he is an officer, be liable to be cashiered or to suffer such less punishment as is in this Act mentioned ; and if he is a warrant officer, be liable to be dismissed or to suffer such less punishment as is in this Act mentioned.

46. *Certain forms of disgraceful conduct.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) is guilty of any disgraceful conduct of a cruel, indecent or unnatural kind ; or

(*b*) malingers, or feigns, or produces disease or infirmity in himself, or intentionally delays his cure or aggravates his disease or infirmity ; or

(*c*) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or that person ;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

47. *Ill-treating a subordinate.*—Any officer, warrant officer or non-commissioned officer, who uses criminal force to or otherwise ill-treats any person subject to this Act, being his subordinate in rank or position, shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

48. *Intoxication.*—(*1*) Any person subject to this Act who is found in a state of intoxication, whether on duty or not, shall, on conviction by court-martial, if he is an officer, be liable to be cashiered or to suffer such less punishment as is in this Act mentioned ; and if he is not an officer, be liable, subject to the

provisions of sub-section (2), to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

(2) Where an offence of being intoxicated is committed by a person other than an officer when not on active service or not on duty, the period of imprisonment awarded shall not exceed six months.

49. *Permitting escape of person in custody.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(a) when in command of a guard, piquet, patrol or post, releases without proper authority whether wilfully or without reasonable excuse, any person committed to his charge or refuses to receive any prisoner or person so committed; or

(b) wilfully or without reasonable excuse allows to escape any person who is committed to his charge, or whom it is his duty to keep or guard;

shall, on conviction by court-martial, be liable, if he has acted wilfully, to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and if he has not acted wilfully, to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

50. *Irregularity in connection with arrest or confinement.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(a) unnecessarily detains a person in arrest or confinement without bringing him to trial, or fails to bring his case before the proper authority for investigation; or

(b) having committed a person to air force custody fails without reasonable cause to deliver at the time of such committal, or as soon as practicable, and in any case within forty-eight hours thereafter, to the officer or other person into whose custody the person arrested is committed, an account in writing signed by himself of the offence with which the person so committed is charged;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

51. *Escape from custody.*—Any person subject to this Act who, being in lawful custody, escapes or attempts to escape, shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

52. *Offences in respect of property.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(a) commits theft of any property belonging to the Government, or to any military, naval or air force mess, band or institution, or to any person subject to military, naval or air force law; or

(b) dishonestly misappropriates or converts to his own use any such property; or

(c) commits criminal breach of trust in respect of any such property; or

(d) dishonestly receives or retains any such property in respect of which any of the offences under clauses (a), (b), and (c) has been committed, knowing or having reason to believe the commission of such offence; or

(e) wilfully destroys or injures any property of the Government entrusted to him; or

(*f*) does any other thing with intent to defraud, or to cause wrongful gain to one person or wrongful loss to another person ;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

53. *Extortion and corruption.*—Any person subject to this Act who commits any of the following offences, that is to say :—

(*a*) commits extortion ;

(*b*) without proper authority exacts from any person money, provisions or service ;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

54. *Making away with equipment.*—Any person subject to this Act who commits any of the following offences, that is to say :—

(*a*) makes away with, or is concerned in making away with, any arms, ammunition, equipment, instruments, tools, clothing or any other thing being the property of the Government issued to him for his use or entrusted to him ; or

(*b*) loses by neglect anything mentioned in clause (*a*) ; or

(*c*) sells, pawns, destroys or defaces any medal or decoration granted to him ;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend, in the case of the offences specified in clause (*a*) to seven years, and in the case of the offences specified in the other clauses to five years, or such less punishment as is in this Act mentioned.

55. *Injury to property.*—Any person subject to this Act who commits any of the following offences, that is to say, —

(*a*) wilfully destroys or injures any property mentioned in clause (*a*) of section 54, or any property belonging to any military, naval or air force mess, band or institution, or to any person subject to military, naval or air force law, or serving with, or attached to, the Air Force ; or

(*b*) commits any act, whether wilfully or without reasonable excuse, which causes damage to, or destruction of, any property of the Government by fire ; or

(*c*) wilfully or without reasonable excuse kills, injures, makes away with, ill-treats or loses any animal entrusted to him ;

shall, on conviction by court-martial, be liable, if he has acted wilfully, to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned ; and in any other case, to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

56. *False accusation.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) makes a false accusation against any person subject to this Act, knowing or having reason to believe such accusation to be false ; or

(*b*) in making a complaint under section 26 or section 27 makes any statement affecting the character of any person subject to this Act, knowing or having reason to believe such statement to be false, or knowingly and wilfully suppresses any material facts ;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

57. *Falsifying official documents and false declaration.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) in any report, return, list, certificate, book or other document made or signed by him, or of the contents of which it is his duty to ascertain the accuracy, knowingly makes, or is privy to the making of any false or fraudulent statement; or

(*b*) in any document of the description mentioned in clause (*a*) knowingly makes, or is privy to the making of, any omission, with intent to defraud; or

(*c*) knowingly and with intent to injure any person, or knowingly and with intent to defraud, suppresses, defaces, alters or makes away with any document which it is his duty to preserve or produce; or

(*d*) where it is his official duty to make a declaration respecting any matter, knowingly makes a false declaration; or

(*e*) obtains for himself, or for any other person, any pension, allowance or other advantage or privilege by a statement which is false, and which he either knows or believes to be false or does not believe to be true, or by making or using a false entry in any book or record, or by making any document containing a false statement, or by omitting to make a true entry or document containing a true statement;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

58. *Signing in blank and failure to report.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) when signing any document relating to pay, arms, ammunition, equipment, clothing, supplies or stores, or any property of the Government leaves in blank any material part for which his signature is a voucher; or

(*b*) refuses or by culpable neglect omits to make or send a report or return which it is his duty to make or send;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

59. *Offences relating to courts-martial.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) being duly summoned or ordered to attend as a witness before a court-martial, wilfully or without reasonable excuse, makes default in attending; or

(*b*) refuses to take an oath or make an affirmation legally required by a court-martial to be taken or made; or

(*c*) refuses to produce or deliver any document in his power or control legally required by a court-martial to be produced or delivered by him; or

(*d*) refuses when a witness to answer any question which he is by law bound to answer; or

(*e*) is guilty of contempt of court-martial by using insulting or threatening language, or by causing any interruption or disturbance in the proceedings of such court;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

60. *False evidence.*—Any person subject to this Act, who, having been duly sworn or affirmed before any court-martial or other court competent under this Act to administer an oath or affirmation, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

61. *Unlawful detention of pay.*—Any officer, warrant officer or non-commissioned officer who, having received the pay of a person subject to this Act unlawfully detains or refuses to pay the same when due, shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

62. *Offences in relation to aircraft and flying.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) wilfully or without reasonable excuse damages, destroys or loses any aircraft or aircraft material belonging to the Government; or

(*b*) is guilty of any act or neglect likely to cause such damage, destruction or loss; or

(*c*) without lawful authority disposes of any aircraft or aircraft material belonging to the Government; or

(*d*) is guilty of any act or neglect in flying, or in the use of any aircraft, or in relation to any aircraft or aircraft material, which causes or is likely to cause loss of life or bodily injury to any person; or

(*e*) during a state of war, wilfully and without proper occasion, or negligently, causes the sequestration, by or under the authority of a neutral State, or the destruction in a neutral State of any aircraft belonging to the Government;

shall, on conviction by court-martial, be liable, if he has acted wilfully, to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned, and in any other case, to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

63. *Other offences relating to aircraft and flying.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) signs any certificate in relation to an aircraft or aircraft material belonging to the Government without ensuring the accuracy thereof; or

(*b*) being the pilot of an aircraft belonging to the Government, flies it at a height less than such height as may be specified by the Commander-in-Chief, except while taking off or landing, or in such other circumstances as may be specified by the Commander-in-Chief; or

(*c*) being the pilot of an aircraft belonging to the Government, flies it so as to cause, or to be likely to cause, unnecessary annoyance to any person;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

64. *Disobedience of lawful command of captain of aircraft.*—Any person subject to this Act who, whatever his rank, commits any of the following offences, that is to say,—

(*a*) while he is in an aircraft disobeys any lawful command given by the captain of the aircraft, whether such captain is subject to this Act or not, as respects all matters relating to the flying or handling of the aircraft, or affecting the safety thereof; or

(*b*) being the captain of a glider aircraft towed by another aircraft disobeys any lawful command given by the captain of the towing aircraft, whether the latter is subject to this Act or not, as respects all matters aforesaid;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

65. *Violation of good order and air force discipline.*—Any person subject to this Act who is guilty of any act or omission which though not specified in this Act, is prejudicial to good order and air force discipline shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

66. *Miscellaneous offences.*—Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) being in command at any post or on the march, and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has disturbed any fair or market, or committed any riot or trespass, fails to have due reparation made to the injured person or to report the case to the proper authority; or

(*b*) by defiling any place of worship, or otherwise, intentionally insults the religion or wounds the religious feelings of any person; or

(*c*) attempts to commit suicide, and in such attempt does any act towards the commission of such offence; or

(*d*) being below the rank of warrant officer, when off duty, appears, without proper authority, in or about camp or cantonments, or in or about, or when going to or returning from, any town or bazar, carrying a rifle, sword or other offensive weapon; or

(*e*) directly or indirectly accepts or obtains, or agrees to accept or attempts to obtain, for himself or for any other person, any gratification as a motive or reward for procuring the enrolment of any person, or leave of absence, promotion or any other advantage or indulgence for any person in the service; or

(*f*) commits any offence against the property or person of any inhabitant of or resident in, the country in which he is serving;

shall, on conviction by court-martial, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

67. *Attempt.*—Any person subject to this Act who attempts to commit any of the offences specified in sections 34 to 66, and in such attempt does any act towards the commission of the offence shall, on conviction by court-martial, where no express provision is made by this Act for the punishment of such attempt, be liable,

if the offence attempted to be committed is punishable with death, to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

if the offence attempted to be committed is punishable with imprisonment, to suffer imprisonment for a term which may extend to one-half of the longest term provided for that offence or such less punishment as is in this Act mentioned.

68. *Abetment of offences that have been committed.*—Any person subject to this Act who abets the commission of any of the offences specified in sections 34 to 66 shall, on conviction by court-martial, if the act abetted is committed in consequence of the abetment and no express provision is made by this Act for the punishment of such abetment, be liable to suffer the punishment provided for that offence or such less punishment as is in this Act mentioned.

69. *Abetment of offences punishable with death and not committed.*—Any person subject to this Act who abets the commission of any of the offences punishable with death under sections 34, 37 and sub-section (*1*) of section 38, shall, on conviction by court-martial, if that offence be not committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

70. *Abetment of offences punishable with imprisonment and not committed.*—Any person subject to this Act who abets the commission of any of the offences specified in sections 34 to 66 and punishable with imprisonment shall, on conviction by court-martial, if that offence be not committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be liable to suffer imprisonment for a term which may extend to one-half of the longest term provided for that offence or such less punishment as is in this Act mentioned.

71. *Civil offences.*—Subject to the provisions of section 72, any person subject to this Act who at any place in or beyond India commits any civil offence shall be deemed to be guilty of an offence against this Act and, if charged therewith under this section shall be liable to be tried by a court-martial and, on conviction, be punishable as follows, that is to say,—

(*a*) if the offence is one which would be punishable under any law in force in India with death or with transportation, he shall be liable to suffer any punishment, other than whipping, assigned for the offence, by the aforesaid law and such less punishment as is in this Act mentioned; and

(*b*) in any other case, he shall be liable to suffer any punishment, other than whipping, assigned for the offence by any law in force in India, or imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

72. *Civil offences not triable by court-martial.*—A person subject to this Act who commits an offence of murder against a person not subject to military, naval or air force law, or of culpable homicide not amounting to murder against such a person or of rape in relation to such person, shall not be deemed to be guilty of an offence against this Act and shall not be tried by a court-martial, unless he commits any of the said offences—

(*a*) while on active service, or

(*b*) at any place outside India, or

(*c*) at a frontier post specified by the said Government by notification in this behalf.

CHAPTER VII

PUNISHMENTS

73. *Punishments awardable by courts-martial.*—Punishments may be inflicted in respect of offences committed by persons subject to this Act and convicted by courts-martial according to the scale following, that is to say,—

(*a*) death;

(*b*) transportation for life or for any period not less than seven years, in respect of civil offences;

(*c*) imprisonment, either rigorous or simple, for any period not exceeding fourteen years;

(*d*) detention for a term not exceeding two years in the case of airmen;

(*e*) cashiering, in the case of officers;

(*f*) dismissal from service;

(*g*) reduction to the ranks or to a lower rank or classification in the case of warrant officers and non-commissioned officers:

Provided that a warrant officer reduced to the ranks shall not be required to serve in the ranks as an airman;

(*h*) forfeiture of seniority of rank, in the case of officers, warrant officers and non-commissioned officers; and forfeiture of all or any part of their service for the purpose of promotion, in the case of any of them whose promotion depends upon length of service;

(*i*) forfeiture of service for the purpose of increased pay, pension or any other prescribed purpose;

(*j*) severe reprimand or reprimand, in the case of officers, warrant officers and non-commissioned officers;

(*k*) forfeiture of pay and allowances for a period not exceeding three months for an offence committed on active service;

(*l*) forfeiture in the case of a person sentenced to cashiering or dismissal from the service of all arrears of pay and allowances and other public money due to him at the time of such cashiering or dismissal;

(*m*) stoppage of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good.

74. *Alternative punishments awardable by court-martial.*—Subject to the provisions of this Act, a court-martial may, on convicting a person subject to this Act of any of the offences specified in sections 34 to 70, award either the particular punishment with which the offence is stated in the said sections to be punishable, or, in lieu thereof, any one of the punishments lower in the scale set out in section 73, regard being had to the nature and degree of the offence.

75. *Combination of punishments.*—A sentence of a court-martial may award in addition to, or without any one other punishment, the punishment specified in clause (*e*) or clause (*f*) of section 73 and any one or more of the punishments specified in clauses (*g*) to (*m*) of that section.

76. *Cashiering of officers.*—An officer shall be sentenced to be cashiered before he is awarded any of the punishments specified in clauses (*a*) to (*c*) of section 73.

77. *Field punishment.*—(*1*) Where any person subject to this Act and under the rank of warrant officer commits any offence on active service, it shall be lawful for a court-martial to award for that offence any such punishment as is prescribed as a field punishment.

(2) Field punishment shall be of the character of personal restraint or of hard labour but shall not be of a nature to cause injury to life or limb and shall not include flogging.

78. *Position of field punishment in scale of punishments.*—Field punishment shall for the purpose of commutation be deemed to stand next below dismissal in the scale of punishments specified in section 73.

79. *Result of certain punishments in the case of a warrant officer or non-commissioned officer.*—A warrant officer or a non-commissioned officer sentenced by a court-martial to transportation, imprisonment, detention, field punishment or dismissal from the service shall be deemed to be reduced to the ranks.

80. *Retention in the ranks of a person convicted on active service.*—When, on active service, any enrolled person has been sentenced by a court-martial to dismissal, or to transportation, imprisonment or detention, whether combined with dismissal or not, the prescribed officer may direct that such person may be retained to serve in the ranks and such service shall be reckoned as part of his term of transportation, imprisonment or detention, if any.

81. *Punishments otherwise than by court-martial.*—Punishments may also be inflicted in respect of offences committed by persons subject to this Act without the intervention of a court-martial and in the manner stated in sections 82 and 86.

82. *Punishment of persons other than officers and warrant officers.*—Subject to the provisions of section 84, a commanding officer or such other officer as is, with the consent of the Central Government, specified by the Commander-in-Chief, may, in the prescribed manner, proceed against a person subject to this Act otherwise than as an officer or warrant officer who is charged with an offence under this Act and award such person, to the extent prescribed, one or more of the following punishments, that is to say,—

(*a*) detention up to twenty-eight days;
(*b*) confinement to the camp up to fourteen days;
(*c*) extra guards or duties not exceeding three in number;
(*d*) deprivation of acting rank;
(*e*) forfeiture of good service and good conduct badge and pay;
(*f*) severe reprimand or reprimand;
(*g*) fine up to fourteen days' pay in any one month;
(*h*) penal deductions under clause (*g*) of section 92;
(*i*) admonition;
(*j*) any prescribed field punishment up to twenty-eight days, in the case of a person on active service.

83. *Requirement of sanction in certain cases.*—(*1*) Subject to the provisions of sub-section (*2*), the punishments mentioned in section 82 shall not be inflicted in respect of an offence under any of the sections 34, 35 and 36 when committed on active service or under any of the sections 37, 38, 40, 42 (*f*) and (*g*), 43, 47, 52, 60, 62, 63, 64, 66 (*a*), (*b*) and (*c*) and 71 except with the previous sanction in writing of an officer having power to convene a district court-martial.

(*2*) The said punishments may be awarded without such sanction in the case of any offence, other than an offence under section 34 or section 71, committed by persons who have not been enrolled as combatants.

84. *Limit of punishments under section* 82.—(*1*) An award of punishment under section 82 shall not include field punishment in addition to one or more of the punishments specified in clauses (*a*) and (*b*) of that section.

(2) In the case of an award of two or more of the punishments specified in clauses (*a*), (*b*) and (*c*) of the said section, the punishment specified in clause (*b*) or clause (*c*) shall take effect only at the end of the punishment specified in clause (*a*).

(3) When two or more of the punishments specified in the said clauses (*a*) and (*b*) are awarded to a person conjointly, or when already undergoing one or more of the said punishments, the whole extent of the punishments shall not exceed in the aggregate forty-two days.

(4) The punishments specified in clauses (*a*), (*b*), (*c*), (*e*), (*g*) and (*j*) of section 82 shall not be awarded to any person who is of the rank of non-commissioned officer or was, at the time of committing the offence for which he is punished, of such rank.

(5) The punishment specified in clause (*f*) of the said section shall not be awarded to any person below the rank of a non-commissioned officer.

85. *Punishments in addition to those specified in section* 82.—The Commander-in-Chief may, with the consent of the Central Government, specify such other punishments as may be awarded under section 82 in addition to or without any of the punishments specified in the said section, and the extent to which such other punishments may be awarded.

86. *Punishment of officers and warrant officers.*—An officer having power to convene a general court-martial or such other officer as is, with the consent of the Central Government, specified by the Commander-in-Chief may, in the prescribed manner, proceed against an officer below the rank of squadron leader or a warrant officer, who is charged with an offence under this Act, and award one or more of the following punishments, that is to say,—

(*a*) forfeiture of seniority, or in the case of any of them whose promotion depends upon length of service, forfeiture of service for the purpose of promotion for a period not exceeding twelve months, but subject to the right of the accused previous to the award to elect to be tried by a court-martial;

(*b*) severe reprimand or reprimand;

(*c*) stoppage of pay and allowance until any proved loss or damage occasioned by the offence of which he is convicted is made good but subject to the right of the accused specified in clause (*a*);

(*d*) forfeiture of pay and allowances for a period not exceeding three months for an offence under clause (*e*) of section 42 in so far as it consists of neglect to obey flying orders or under section 62 or section 63.

87. *Transmission of proceedings.*—In every case in which punishment has been awarded under section 86, certified true copies of the proceedings shall be forwarded, in the prescribed manner by the officer awarding the punishment, to a superior air force authority as defined in section 89.

88. *Review of proceedings.*—If any punishment awarded under section 86 appears to a superior air force authority as defined in section 89 to be illegal, unjust or excessive, such authority may cancel, vary or remit the punishment and make such other direction as may be appropriate in the circumstances of the case.

89. *Superior air force authority.*—For the purposes of sections 87 and 88, a "superior air force authority" means—

(*a*) in the case of punishments awarded by a commanding officer, any officer superior in command to such commanding officer;

(*b*) in the case of punishments awarded by any other authority, the Central Government, the Commander-in-Chief or other officer specified by the Commander-in-Chief.

90. *Collective fines.*—(*1*) Whenever any weapon or part of a weapon forming part of the equipment of a unit or detachment is lost or stolen, the officer commanding such unit or detachment may, after obtaining the report of a court of inquiry, impose a collective fine upon the warrant officers, non-commissioned officers and men of such unit, or upon so many of them as, in his judgment, should be held responsible for such loss or theft.

(*2*) Such fine shall be assessed as a percentage on the pay of the individuals on whom it falls.

CHAPTER VIII

PENAL DEDUCTIONS

91. *Deductions from pay and allowances of officers.*—The following penal deductions may be made from the pay and allowances of an officer, that is to say,—

(*a*) all pay and allowances due to an officer for every day he absents himself without leave, unless a satisfactory explanation has been given to his commanding officer and has been approved by the Central Government;

(*b*) all pay and allowances for every day while he is in custody on a charge for an offence of which he is afterwards convicted by a criminal court or a court-martial or by an officer exercising authority under section 86;

(*c*) any sum required to make good the pay of any person subject to this Act which he has unlawfully retained or unlawfully refused to pay;

(*d*) any sum required to make good such compensation for any expenses, loss, damage or destruction occasioned by the commission of an offence as may be determined by the court-martial by whom he is convicted of such offence, or by an officer exercising authority under section 86;

(*e*) all pay and allowances ordered by a court-martial or an officer exercising authority under section 86 to be forfeited or stopped;

(*f*) any sum required to pay a fine awarded by a criminal court or a court-martial exercising jurisdiction under section 71;

(*g*) any sum required to make good any loss, damage, or destruction of public or service property which, after due investigation, appears to the Central Government to have been occasioned by the wrongful act or negligence on the part of the officer;

(*h*) all pay and allowances forfeited by order of the Central Government if the officer is found by a court of inquiry constituted by the Commander-in-Chief in this behalf, to have deserted to the enemy, or while in enemy hands, to have served with, or under the orders of, the enemy or in any manner to have aided the enemy, or to have allowed himself to be taken prisoner by the enemy through want of due precaution or through disobedience of orders or wilful neglect of duty, or having been taken prisoner by the enemy, to have failed to rejoin his service when it was possible to do so;

(*i*) any sum required by order of the Central Government to be paid for the maintenance of his wife or his legitimate or illegitimate child or

towards the cost of any relief given by the said Government to the said wife or child.

92. *Deductions from pay and allowances of airmen.*—Subject to the provisions of section 95, the following penal deductions may be made from the pay and allowances of an airman, that is to say,—

(*a*) all pay and allowances for every day of absence either on desertion or without leave, or as a prisoner of war, and for every day of transportation or imprisonment awarded by a criminal court, or a court-martial, or of detention, or field punishment awarded by a court-martial or an officer exercising authority under section 82;

(*b*) all pay and allowances for every day while he is in custody on a charge for an offence of which he is afterwards convicted by a criminal court or a court-martial, or on a charge of absence without leave for which he is afterwards awarded detention or field punishment by an officer exercising authority under section 82;

(*c*) all pay and allowances for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by an offence under this Act committed by him;

(*d*) for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by his own misconduct or imprudence, such sum as may be specified by order of the Central Government or by such officer as may be specified by that Government;

(*e*) all pay and allowances ordered by a court-martial or by an officer exercising authority under section 82 or section 86 to be forfeited or stopped;

(*f*) all pay and allowances for every day between his being recovered from the enemy and his dismissal from the service in consequence of his conduct when being taken prisoner by, or while in the hands of, the enemy;

(*g*) any sum required to make good such compensation for any expenses, loss, damage or destruction caused by him to the Central Government or to any building or property as may be awarded by his commanding officer;

(*h*) any sum required to pay a fine awarded by a criminal court, a court-martial exercising jurisdiction under section 71, or an officer exercising authority under section 82 or section 90;

(*i*) any sum required by order of the Central Government or any prescribed officer to be paid for the maintenance of his wife or his legitimate or illegitimate child or towards the cost of any relief given by the said Government to the said wife or child.

93. *Computation of the time of absence or custody.*—For the purposes of clauses (*a*) and (*b*) of section 92—

(*a*) no person shall be treated as absent or in custody for a day unless the absence or custody has lasted, whether wholly in one day, or partly in one day and partly in another, for six consecutive hours or upwards;

(*b*) any absence or custody for less than a day may be reckoned as absence or custody for a day if such absence or custody prevented the absentee from fulfilling any air force duty which was thereby thrown upon some other person;

(*c*) absence or custody for twelve consecutive hours or upwards may be reckoned as absence or custody for the whole of each day during any portion of which the person was absent or in custody;

(*d*) a period of absence, or imprisonment, which commences before, and ends after, midnight may be reckoned as a day.

94. *Pay and allowances during trial.*—In the case of any person subject to this Act who is in custody on a charge for an offence, the prescribed officer may direct that the whole or any part of the pay and allowances of such person shall be withheld, pending the result of his trial on the charge against him, in order to give effect to the provisions of clause (*b*) of sections 91 and 92.

95. *Limit of certain deductions.*—The total deductions from the pay and allowances of a person made under clauses (*e*) and (*g*) to (*i*) of section 92 shall not, except where he is sentenced to dismissal, exceed in any one month one-half of his pay and allowances for that month.

96. *Deduction from public money due to a person.*—Any sum authorised by this Act to be deducted from the pay and allowances of any person may, without prejudice to any other mode of recovering the same, be deducted from any public money due to him other than a pension.

97. *Pay and allowances of prisoner of war during inquiry into his conduct.*—Where the conduct of any person subject to this Act when being taken prisoner by, or while in the hands of, the enemy, is to be inquired into under this Act or any other law, the Commander-in-Chief or any officer authorised by him may order that the whole or any part of the pay and allowances of such person shall be withheld pending the result of such inquiry.

98. *Remission of deductions.*—Any deduction from pay and allowances authorised by this Act may be remitted in such manner, and to such extent, and by such authority, as may from time to time be prescribed.

99. *Provision for dependants of prisoner of war from remitted deductions.*—In the case of all persons subject to this Act, being prisoners of war, whose pay and allowances have been forfeited under clause (*h*) of section 91 or clause (*a*) of section 92, but in respect of whom a remission has been made under section 98, it shall be lawful for proper provision to be made by the prescribed authorities out of such pay and allowances for any dependants of such persons, any such remission shall in that case be deemed to apply only to the balance thereafter remaining of such pay and allowances.

100. *Provision for dependants of prisoner of war from his pay and allowances.*—It shall be lawful for proper provision to be made by the prescribed authorities for any dependants of any person subject to this Act, who is a prisoner of war or is missing, out of his pay and allowances.

101. *Period during which a person is deemed to be a prisoner of war.*—For the purposes of sections 99 and 100, a person shall be deemed to continue to be a prisoner of war until the conclusion of any inquiry into his conduct such as is referred to in section 97, and if he is cashiered or dismissed from the service in consequence of such conduct, until the date of such cashiering or dismissal.

CHAPTER IX

Arrest and Proceedings before Trial

102. *Custody of offenders.*—(*1*) Any person subject to this Act who is charged with an offence may be taken into air force custody.

(*2*) Any such person may be ordered into air force custody by any superior officer.

(*3*) Any officer may order into air force custody any officer, though he may be of a higher rank, engaged in a quarrel, affray or disorder.

103. *Duty of commanding officer in regard to detention.*—(*1*) It shall be the duty of every commanding officer to take care that a person under his command when charged with an offence is not detained in custody for more than forty-eight hours after the committal of such person into custody is reported to him, without the charge being investigated, unless investigation within that period seems to him to be impracticable with due regard to the public service.

(*2*) Every case of a person being detained in custody beyond a period of forty-eight hours, and the reason thereof shall be reported by the commanding officer to the air or other officer to whom application would be made to convene a general or district court-martial for the trial of the person charged.

(*3*) In reckoning the period of forty-eight hours specified in sub-section (*1*), Sundays and public holidays shall be excluded.

(*4*) Nothing contained in clauses (1) and (2) of Article 22 of the Constitution shall apply to any person who is taken into air force custody under this Act.

104. *Interval between committal and court-martial.*—In every case where any such person as is mentioned in section 102 and as is not on active service remains in such custody for a longer period than eight days, without a court-martial for his trial being ordered to assemble, a special report of the necessity for further delay shall be made by his commanding officer in the manner prescribed; and a similar report shall be forwarded every eight days until a court-martial is assembled or such person is released from custody.

105. *Arrest by civil authorities.*—Whenever any person subject to this Act, who is accused of any offence under this Act, is within the jurisdiction of any Magistrate or police officer, such Magistrate or police officer shall aid in the apprehension and delivery to air force custody of such person upon receipt of a written application to that effect signed by his commanding officer.

106. *Capture of deserters.*—(*1*) Whenever any person subject to this Act deserts the commanding officer of the unit or detachment to which he belongs, shall give written information of the desertion to such civil authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter in like manner as if he were a person for whose apprehension a warrant had been issued by a Magistrate, and shall deliver the deserter, when apprehended, into air force custody.

(*2*) Any police officer may arrest without warrant any person reasonably believed to be subject to this Act, and to be a deserter or to be travelling without authority, and shall bring him without delay before the nearest Magistrate, to be dealt with according to law.

107. *Inquiry into absence without leave.*—(*1*) When any person subject to this Act has been absent from his duty without due authority for a period of thirty days, a court of inquiry shall, as soon as practicable, be assembled, and such court shall, on oath or affirmation administered in the prescribed manner, inquire respecting the absence of the person, and the deficiency, if any, in the property of the Government entrusted to his care, or in any arms, ammunition, equipment, instruments, clothing or necessaries, and if satisfied of the fact of such absence without due authority or other sufficient cause, the court shall declare such absence and the period thereof, and the said deficiency, if any; and the commanding officer of the unit to which the person belongs shall enter in the court-martial book of the unit a record of declaration.

(*2*) If the person declared absent does not afterwards surrender or is not apprehended, he shall, for the purposes of this Act, be deemed to be a deserter.

108. *Provost-marshals.*—(*1*) Provost-marshals may be appointed by the Commander-in-Chief, or by any prescribed officer.

(*2*) The duties of a provost-marshal so appointed are to take charge of persons confined for any offence, to preserve good order and discipline, and to prevent breaches of the same by persons serving in, or attached to, the Air Force.

(*3*) A provost-marshal may at any time arrest and detain for trial any person subject to this Act who commits, or is charged with, an offence, and may also carry into effect any punishment to be inflicted in pursuance of the sentence awarded by a court-marshal, or by an officer exercising authority under section 82 but shall not inflict any punishment on his own authority.

(*4*) For the purposes of sub-sections (*2*) and (*3*), a provost-marshal shall be deemed to include a provost-marshal appointed under the Army Act or the Navy Act and any person legally exercising authority under him or on his behalf.

CHAPTER X

COURTS-MARTIAL

109. *Different kinds of courts-martial.*—For the purposes of this Act there shall be three kinds of courts-martial, that is to say,—

(*a*) general courts-martial;
(*b*) district courts-martial; and
(*c*) summary general courts-martial.

110. *Power to convene a general court-martial.*—A general court-martial may be convened by the Central Government or the Commander-in-Chief, or by any officer empowered in this behalf by a warrant of the Commander-in-Chief.

111. *Power to convene a district court-martial.*—A district court-martial may be convened by an officer having power to convene a general court-martial, or by any officer empowered in this behalf by a warrant of any such officer.

112. *Contents of warrants issued under sections* 110 *and* 111.—A warrant issued under section 110 or section 111 may contain such restrictions, reservations or conditions as the officer issuing it may think fit.

113. *Power to convene a summary general court-martial.*—The following authorities shall have the power to convene a summary general court-martial, namely :—

(*a*) an officer empowered in this behalf by an order of the Central Government or of the Commander-in-Chief;

(*b*) on active service, the officer commanding the forces in the field, or any officer empowered by him in this behalf;

(*c*) an officer commanding any detached portion of the Air Force on active service when, in his opinion, it is not practicable, with due regard to discipline and the exigencies of the service, that an offence should be tried by a general court-martial.

114. *Composition of general court-martial.*—A general court-martial shall consist of not less than five officers, each of whom has held a commission for not less than three whole years and of whom not less than four are of a rank not below that of flight-lieutenant.

115. *Composition of district court-martial.*—A district court-martial shall consist of not less than three officers, each of whom has held a commission for not less than two whole years.

116. *Composition of summary general court-martial.*—A summary general court-martial shall consist of not less than three officers.

117. *Dissolution of court-martial.*—(*1*) If a court-martial after the commencement of a trial is reduced below the minimum number of officers required by this Act, it shall be dissolved.

(*2*) If, on account of the illness of the judge advocate or of the accused before the finding, it is impossible to continue the trial, a court-martial shall be dissolved.

(*3*) The officer who convened a court-martial may dissolve such court-martial if it appears to him that the exigencies of the service or the necessities of discipline render it impossible or inexpedient to continue the said court-martial.

(*4*) Where a court-martial is dissolved under this section, the accused may be tried again.

118. *Powers of general and summary general courts-martial.*—A general or summary general court-martial shall have power to try any person subject to this Act for any offence punishable therein and to pass any sentence authorised thereby.

119. *Powers of district court-martial.*—A district court-martial shall have power to try any person subject to this Act other than an officer or warrant officer for any offence made punishable therein, and to pass any sentence authorised by this Act other than a sentence of death, transportation, or imprisonment for a term exceeding two years.

120. *Prohibition of second trial.*—When any person subject to this Act has been acquitted or convicted of an offence by a court-martial or by a criminal court, or has been dealt with under section 82 or section 86, he shall not be liable to be tried again for the same offence by a court-martial or dealt with under the said sections.

121. *Period of limitation for trial.*—(*1*) Except as provided by sub-section (*2*), no trial by court-martial of any person subject to this Act for any offence shall be commenced after the expiration of a period of three years from the date of such offence.

(*2*) The provisions of sub-section (*1*) shall not apply to a trial for an offence of mutiny, desertion or fraudulent enrolment.

(*3*) In the computation of the period of time mentioned in sub-section (*1*), any time spent by such person as a prisoner of war, or in enemy territory, or in evading arrest after the commission of the offence, shall be excluded.

(*4*) No trial for an offence of desertion, other than desertion on active service or of fraudulent enrolment shall be commenced if the person in question, not being an officer has, subsequently to the commission of the offence, served continuously in an exemplary manner for not less than three years with any portion of the Air Force.

(*5*) For the purposes of sub-section (*2*), mutiny means any of the offences mentioned in section 37.

122. *Liability of offender who ceases to be subject to Act.*—(*1*) Where an offence under this Act had been committed by any person while subject to this Act, and he has ceased to be so subject, he may be taken into and kept in air force custody, and tried and punished for such offence as if he continued to be so subject.

(2) Except as provided by sub-sections (3) and (4), any such person shall not be tried for an offence, unless his trial commences within six months after he had ceased to be subject to this Act.

(3) The provisions of sub-section (2) shall not apply to the trial of any such person for an offence of mutiny, desertion or fraudulent enrolment.

(4) Nothing contained in sub-section (2) shall affect the jurisdiction of a civil court to try any offence triable by such court as well as by a court-martial.

(5) When a person subject to this Act is sentenced by a court-martial to transportation or imprisonment, this Act shall apply to him during the term of his sentence, though he is cashiered or dismissed from the Air Force, or has otherwise ceased to be subject to this Act, and he may be kept, removed, imprisoned and punished as if he continued to be subject to this Act.

(6) When a person subject to this Act is sentenced by a court-martial to death, this Act shall apply to him till the sentence is carried out.

123. *Place of trial.*—Any person subject to this Act who commits any offence against it may be tried and punished for such offence in any place whatever.

124. *Choice between criminal court and court-martial.*—When a criminal court and a court-martial have each jurisdiction in respect of an offence, it shall be in the discretion of the Commander-in-Chief, the officer commanding any group, wing or station in which the accused prisoner is serving or such other officer as may be prescribed to decide before which court the proceedings shall be instituted, and, if that officer decides that they should be instituted before a court-martial, to direct that the accused person shall be detained in air force custody.

125. *Power of criminal court to require delivery of offender.*—(1) When a criminal court having jurisdiction is of opinion that proceedings shall be instituted before itself in respect of any alleged offence, it may, by written notice, require the officer referred to in section 124 at his option, either to deliver over the offender to the nearest Magistrate to be proceeded against according to law, or to postpone proceedings pending a reference to the Central Government.

(2) In every such case the said officer shall either deliver over the offender in compliance with the requisition, or shall forthwith refer the question as to the court before which the proceedings are to be instituted for the determination of the Central Government whose order upon such reference shall be final.

126. *Successive trials by a criminal court and a court-martial.*—(1) A person convicted or acquitted by a court-martial may, with the previous sanction of the Central Government, be tried again by a criminal court for the same offence, or on the same facts.

(2) If a person sentenced by a court-martial under this Act or punished under section 82 or section 86 is afterwards tried and convicted by a criminal court for the same offence, or on the same facts, that court shall, in awarding punishment have regard to the punishment he may already have undergone for the said offence.

CHAPTER XI

Procedure of Courts-martial

127. *President.*—At every general, district or summary general court-martial the senior member shall sit as president.

128. *Judge Advocate.*—Every general court-martial shall, and every district or summary general court-martial may, be attended by a judge advocate, who shall be either an officer belonging to the department of the Chief Legal Adviser or if no such officer is available, an officer approved by the Chief Legal Adviser or any of his deputies.

129. *Challenges.*—(*1*) At all trials by general, district or summary general courts-martial, as soon as the court is assembled, the names of the president and members shall be read over to the accused, who shall thereupon be asked whether he objects to being tried by any officer sitting on the court.

(*2*) If the accused objects to any such officer, his objection, and also the reply thereto of the officer objected to, shall be heard and recorded, and the remaining officers of the court shall, in the absence of the challenged officer, decide on the objection.

(*3*) If the objection is allowed by one-half or more of the votes of the officers entitled to vote, the objection shall be allowed, and the member objected to shall retire, and his vacancy may be filled in the prescribed manner by another officer, subject to the same right of the accused to object.

(*4*) When no challenge is made, or when challenge has been made and disallowed, or the place of every officer successfully challenged has been filled by another officer to whom no objection is made or allowed, the court shall proceed with the trial.

130. *Oaths of member, judge advocate and witness.*—(*1*) An oath or affirmation in the prescribed manner shall be administered to every member of every court-martial and to the judge advocate before the commencement of the trial.

(*2*) Every person giving evidence before a court-martial shall be examined on oath or affirmation, and shall be duly sworn or affirmed in the prescribed form.

(*3*) The provisions of sub-section (*2*) shall not apply where the witness is a child under twelve years of age and the court-martial is of opinion that though the witness understands the duty of speaking the truth, he does not understand the nature of an oath or affirmation.

131. *Voting of members.*—(*1*) Subject to the provisions of sub-sections (*2*) and (*3*), every decision of a court-martial shall be passed by an absolute majority of votes; and where there is an equality of votes on either the finding or the sentence, the decision shall be in favour of the accused.

(*2*) No sentence of death shall be passed by a general court-martial without the concurrence of at least two-thirds of the members of the court.

(*3*) No sentence of death shall be passed by a summary general court-martial without the concurrence of all the members.

(*4*) In matters other than a challenge or the finding or sentence, the president shall have a casting vote.

132. *General rule as to evidence.*—The Indian Evidence Act, 1872 (I of 1872), shall subject to the provisions of this Act, apply to all proceedings before a court-martial.

133. *Judicial notice.*—A court-martial may take judicial notice of any matter within the general air force knowledge of the members.

134. *Summoning witnesses.*—(*1*) The convening officer, the president of a court-martial, the judge advocate or the commanding officer of the accused

person, may, by summons under his hand, require the attendance, at a time and place to be mentioned in the summons, of any person either to give evidence or to produce any document or other thing.

(*2*) In the case of witness amenable to air force authority, the summons shall be sent to his commanding officer, and such officer shall serve it upon him accordingly.

(*3*) In the case of any other witness, the summons shall be sent to the Magistrate within whose jurisdiction he may be or reside, and such Magistrate shall give effect to the summons as if the witness were required in the court of such Magistrate.

(*4*) When a witness is required to produce any particular document or other thing in his possession or power, the summons shall describe it with reasonable precision.

135. *Documents exempted from production.*—(*1*) Nothing in section 134 shall be deemed to affect the operation of sections 123 and 124 of the Indian Evidence Act, 1872 (I of 1872), or to apply to any letter, postcard, telegram or other document in the custody of the postal or telegraph authorities.

(*2*) If any document in such custody is, in the opinion of any District Magistrate, Chief Presidency Magistrate, High Court or Court of Session, wanted for the purposes of any court-martial, such Magistrate or Court may require the postal or telegraph authorities, as the case may be, to deliver such document to such person as such Magistrate or Court may direct.

(*3*) If any such document is, in the opinion of any other Magistrate or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the postal or telegraph authorities, as the case may be, to cause search to be made for and to detain such document pending the orders of any such District Magistrate, Chief Presidency Magistrate or Court.

136. *Commissions for examination of witnesses.*—(*1* Whenever, in the course of a trial by court-martial, it appears to the court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, in the circumstances of the case, would be unreasonable, such court may address the Chief Legal Adviser in order that a commission to take the evidence of such witness may be issued.

(*2*) The Chief Legal Adviser may then, if he thinks necessary, issue a commission to any District Magistrate or Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

(*3*) The Magistrate or officer to whom the commission is issued, or, if he is the District Magistrate, he or such Magistrate of the first class as he appoints in this behalf, shall proceed to the place where the witness is or shall summon the witness before him and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant-cases under the Code of Crinimal Procedure, 1898 (Act V of 1898) or any corresponding law in force in an Acceding State.

(*4*) When the witness resides in a tribal area or in any place outside India, the commission may be issued in the manner specified in Chapter XL of the Code of Criminal Procedure, 1898 (Act V of 1898), or of any corresponding law in force in an Acceding State.

(*5*) In this and the next succeeding section, the expression "Chief Legal Adviser" includes a Deputy Chief Legal Adviser.

137. *Examination of a witness on commission.*—(*1*) The prosecutor and the accused person in any case in which a commission is issued under section 136 may respectively forward any interrogatories in writing which the court may think relevant to the issue, and the Magistrate or officer executing the commission shall examine the witness upon such interrogatories.

(*2*) The prosecutor and the accused person may appear before such Magistrate or officer by counsel or, except in the case of an accused person in custody, in person, and may examine, cross-examine and re-examine, as the case may be, the said witness.

(*3*) After a commission issued under section 136 has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder to the Chief Legal Adviser.

(*4*) On receipt of a commission and deposition returned under sub-section (*3*), the Chief Legal Adviser shall forward the same to the court at whose instance the commission was issued or, if such court has been dissolved, to any other court convened for the trial of the accused person; and the commission, the return thereto and the deposition shall be open to inspection by the prosecutor and the accused person, and may, subject to all just exceptions, be read in evidence in the case by either the prosecutor or the accused, and shall form part of the proceedings of the court.

(*5*) In every case in which a commission is issued under section 136, the trial may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

138. *Conviction of offence not charged.*—(*1*) A person charged before a court-martial with desertion may be found guilty of attempting to desert or of being absent without leave.

(*2*) A person charged before a court-martial with attempting to desert may be found guilty of being absent without leave.

(*3*) A person charged before a court-martial with using criminal force may be found guilty of assault.

(*4*) A person charged before a court-martial with using threatening language may be found guilty of using insubordinate language.

(*5*) A person charged before a court-martial with any one of the offences specified in clauses (*a*), (*b*), (*c*) and (*d*) of section 52 may be found guilty of any other of these offences with which he might have been charged.

(*6*) A person charged before a court-martial with an offence punishable under section 71 may be found guilty of any other offence of which he might have been found guilty if the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), were applicable.

(*7*) A person charged before a court-martial with any offence under this Act, may, on failure of proof of an offence having been committed in circumstances involving a more severe punishment, be found guilty of the same offence as having been committed in circumstances involving a less severe punishment.

(*8*) A person charged before a court-martial with any offence under this Act may be found guilty of having attempted or abetted the commission of that offence, although the attempt or abetment is not separately charged.

139. *Presumption as to signatures.*—In any proceeding under this Act, any application, certificate, warrant, reply, or other document purporting to be signed by an officer in the service of the Government shall, on production, be presumed to have been duly signed by the person, by whom and in the character in which it purports to have been signed, until the contrary is shown.

140. *Enrolment paper.*—(*1*) Any enrolment paper purporting to be signed by an enrolling officer shall, in proceedings under this Act, be evidence of the person enrolled having given the answers to questions which he is therein represented as having given.

(*2*) The enrolment of such person may be proved by the production of the original or a copy of his enrolment paper purporting to be certified to be a true copy by the officer having the custody of the enrolment paper.

141. *Presumption as to certain documents.*—(*1*) A letter, return or other document respecting the service of any person in, or the cashiering dismissal or discharge of any person from, any portion of the Air Force, or respecting the circumstances of any person not having served in, or belonged to, any portion of the Forces, if purporting to be signed by or on behalf of the Central Government or the Commander-in-Chief, or by any prescribed officer, shall be evidence of the facts stated in such letter, return or other document.

(*2*) An Army, Navy or Air Force List or Gazette purporting to be published by authority shall be evidence of the status and rank of the officers or warrant officers therein mentioned, and of any appointment held by them and of the unit or branch of the services to which they belong.

(*3*) Where a record is made in any service book in pursuance of this Act or of any rules made thereunder or otherwise in pursuance of air force duty, and purports to be signed by the commanding officer or by the officer whose duty it is to make such record, such record shall be evidence of the facts therein stated.

(*4*) A copy of any record in any service book purporting to be certified to be a true copy by the officer having custody of such book shall be evidence of such record.

(*5*) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of any officer or other person subject to this Act, or any portion of the Air Force, or has been apprehended by such officer or person, a certificate purporting to be signed by such officer, or by the commanding officer of that portion of the Air Force, or by the commanding officer of the unit, or detachment to which such person belongs, as the case may be, and stating the fact, date and place of such surrender or apprehension, and the manner in which he was dressed, shall be evidence of the matters so stated.

(*6*) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of, or has been apprehended by, a police officer not below the rank of an officer in charge of a police station, a certificate purporting to be signed by such police officer and stating the fact, date and place of such surrender or apprehension and the manner in which he was dressed shall be evidence of the matters so stated.

(*7*) Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government upon any matter or thing duly submitted to him for examination or analysis and report may be used as evidence in any proceeding under this Act.

142. *Reference by accused to Government officer.*—(*1*) If at any trial for desertion or absence without leave, overstaying leave or not rejoining when warned for service, the person tried states in his defence any sufficient or reasonable excuse for his unauthorised absence, and refers in support thereof to any officer in the service of the Government, or if it appears that any such officer is likely to prove or disprove the said statement in the defence, the court shall address such officer and adjourn the proceedings until his reply is received.

(2) The written reply of any officer so referred to shall, if signed by him be received in evidence and have the same effect as if made on oath before the court.

(3) If the court is dissolved before the receipt of such reply, or if the court omits to comply with the provisions of this section, the convening officer may, at his discretion, annul the proceedings and order a fresh trial.

143. *Evidence of previous convictions and general character.*—(1) When any person subject to this Act has been convicted by a court-martial of any offence, such court-martial may inquire into, and receive and record evidence of any previous convictions of such person, either by a court-martial or by a criminal court, or any previous award of punishment under section 82 or section 86 and may further inquire into and record the general character of such person and such other matters as may be prescribed.

(2) Evidence received under this section may be either oral, or in the shape of entries in, or certified extracts from, court-martial books or other official records, and it shall not be necessary to give notice before trial to the person tried that evidence as to his previous convictions or character will be received.

144. *Lunacy of accused.*—(1) Whenever, in the course of a trial by a court-martial, it appears to the court that the person charged is by reason of unsoundness of mind incapable of making his defence, or that he committed the act alleged but was by reason of unsoundness of mind incapable of knowing the nature of the act or knowing that it was wrong or contrary to law, the court shall record a finding accordingly.

(2) The president of the court shall forthwith report the case to the confirming officer.

(3) The confirming officer to whom the case is reported under sub-section (2) may, if he does not confirm the finding, take steps to have the accused person tried by the same or another court-martial for the offence with which he was charged.

(4) A confirming officer confirming a finding in any case so reported to him under sub-section (2) shall order the accused person to be kept in custody in the prescribed manner and shall report the case for the orders of the Central Government.

(5) On receipt of a report under sub-section (4) the Central Government may order the accused person to be detained in a lunatic asylum or other suitable place of safe custody.

145. *Subsequent fitness of lunatic accused for trial.*—Where any accused person, having been found by reason of unsoundness of mind to be incapable of making his defence, is in custody or under detention under section 144, the officer commanding a unit or detachment within the area of whose command the accused is in custody or is detained, or any other officer prescribed in this behalf, may—

(a) if such person is in custody under sub-section (4) of section 144, on the report of a medical officer that he is capable of making his defence, or

(b) if such person is detained in a jail under sub-section (5) of section 144, on a certificate of the Inspector General of Prisons, and if such person is detained in a lunatic asylum under the said sub-section on a certificate of any two or more of the visitors of such asylum that he is capable of making his defence,

take steps to have such person tried by the same or another court-martial for the offence with which he was originally charged, or, if the offence is a civil offence, by a criminal court.

146. *Transmission to Central Government of orders under section* 145.—A copy of every order made by an officer under section 145 for the trial of the accused shall forthwith be sent to the Central Government.

147. *Release of lunatic accused.*—Where any person is in custody under sub-section (*4*) of section 144 or under detention under sub-section (*5*) of that section—

(*a*) if such person is in custody under the said sub-section (*4*), on the report of a medical officer, or

(*b*) if such person is detained under the said sub-section (*5*), on a certificate from any of the authorities mentioned in clause (*b*) of section 145 that, in the judgment of such officer or authority such person may be released without danger of his doing injury to himself or to any other person,

the Central Government may order that such person be released, or detained in custody, or transferred to a public lunatic asylum if he has not already been sent to such an asylum.

148. *Delivery of lunatic accused to relatives.*—Where any relative or friend of any person who is in custody under sub-section (*4*) of section 144 or under detention under sub-section (*5*) of that section desires that he should be delivered to his care and custody, the Central Government may upon application by such relative or friend and on his giving security to the satisfaction of that Government that the person delivered shall be properly taken care of and prevented from doing injury to himself or any other person, and be produced for the inspection of such officer, and at such times and places, as the Central Government may direct, order such person to be delivered to such relative or friend.

149. *Order for custody and disposal of property pending trial.*—When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before a court-martial during a trial, the court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the trial, and if the property is subject to speedy or natural decay may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

150. *Order for disposal of property regarding which offence is committed.*—(*1*) After the conclusion of a trial before any court-martial, the court or the officer confirming the finding or sentence of such court-martial or any authority superior to such officer, may make such order as it or he thinks fit for the disposal by destruction, confiscation, delivery to any person claiming to be entitled to possession thereof, or otherwise, of any property or document produced before the court or in its custody, or regarding which any offence appears to have been committed or which has been used for the commission of any offence.

(*2*) Where any order has been made under sub-section (*1*) in respect of property regarding which an offence appears to have been committed, a copy of such order signed and certified by the authority making the same may, whether the trial was held within India or not, be sent to a Magistrate within whose jurisdiction such property for the time being is situated, and such Magistrate shall thereupon cause the order to be carried into effect as if it were an order passed by him under the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), or any corresponding law in force in an Acceding State.

(*3*) In this section the term "property" includes, in the case of property regarding which an offence appears to have been committed, not only such

property as has been originally in the possession or under the control of any person, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange whether immediately or otherwise.

151. *Powers of court-martial when certain offences are committed by persons not subject to this Act.*—Any trial by a court-martial under the provisions of this Act shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (Act XLV of 1860), and the court-martial shall be deemed to be a court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).

CHAPTER XII

Confirmation and Revision

152. *Finding and sentence not valid, unless confirmed.*—No finding or sentence of a general, district or summary general court-martial shall be valid except so far as it may be confirmed as provided by this Act.

153. *Power to confirm finding and sentence of general court-martial.*—The findings and sentences of general courts-martial may be confirmed by the Central Government, the Commander-in-Chief or by any officer empowered in this behalf by warrant of the Commander-in-Chief.

154. *Power to confirm finding and sentence of district court-martial.*—The findings and sentences of district courts-martial may be confirmed by any officer having power to convene a general court-martial or by any officer empowered in this behalf by warrant of such officer.

155. *Limitation of powers of confirming authority.*—A warrant issued under section 153 or section 154 may contain such restrictions, reservations or conditions as the authority issuing it may think fit.

156. *Power to confirm finding and sentence of summary general court-martial.*—The findings and sentences of summary general courts-martial may be confirmed by the convening officer or if he so directs, by an authority superior to him.

157. *Power of confirming authority to mitigate, remit or commute sentences.*—(*1*) Subject to such restrictions, reservations or conditions as may be contained in any warrant issued under section 153 or section 154 and to the provisions of sub-section (*2*) and (*3*), a confirming authority may, when confirming the sentence of a court-martial, mitigate or remit the punishment thereby awarded, or commute that punishment for any punishment or punishments lower in the scale laid down in section 73.

(*2*) A sentence of transportation shall not be committed for a sentence of imprisonment or detention for a term exceeding the term of transportation awarded by the court.

(*3*) A sentence of imprisonment shall not be committed for a sentence of detention for a term exceeding the term of imprisonment awarded by the court.

158. *Confirming of findings and sentences on board a ship.*—When any person subject to this Act is tried and sentenced by a court-martial while on board a ship, the finding and sentence so far as not confirmed and executed on board the ship, may be confirmed and executed in like manner as if such person had been tried at the port of disembarkation.

159. *Revision of finding or sentence.*—(*1*) Any finding or sentence of a court-martial may be once revised by order of the confirming authority and on such revision, the court, if so directed by the confirming authority, may take additional evidence.

(*2*) The court, on revision, shall consist of the same officers as were present when the original decision was passed, unless any of those officers are unavoidably absent.

(*3*) In case of such unavoidable absence the cause thereof shall be duly certified in the proceedings, and the court shall proceed with the revision, provided that, if a general court-martial, it still consists of five officers, or, if a summary general or district court-martial, of three officers.

160. *Substitution of a valid finding or sentence for an invalid finding or sentence.*—(*1*) Where a finding of guilty by a court-martial, which has been confirmed, is found for any reason to be invalid or cannot be supported by the evidence, the authority which would have had power under section 177 to commute the punishment awarded by the sentence, if the finding had been valid, may substitute a new finding and pass a sentence for the offence specified or involved in such finding:

Provided that no such substitution shall be made unless such finding could have been validly made by the court-martial on the charge and unless it appears that the court-martial must have been satisfied of the facts establishing the offence.

(*2*) Where a sentence passed by a court-martial which has been confirmed not being a sentence passed in pursuance of a new finding substituted under sub-section (*1*), is found for any reason to be invalid, the authority referred to in sub-section (*1*) may pass a valid sentence.

(*3*) The punishment awarded by a sentence passed under sub-section (*1*) or sub-section (*2*) shall not be higher in the scale of punishments than, or in excess of, the punishment awarded by, the sentence for which a new sentence is substituted under this section.

(*4*) Any finding substituted, or any sentence passed, under this section shall for the purposes of this Act and the rules made thereunder have effect as if it were a finding or sentence, as the case may be, of a court-martial.

161. *Remedy against finding and sentence of court-martial.*—Any person subject to this Act who considers himself aggrieved by a finding or sentence of a general, district or summary general court-martial may forward a petition, if before confirmation of such finding or sentence, to the authority or officer empowered to confirm it, and if after confirmation, to the Central Government, the Commander-in-Chief, or any prescribed officer, provided that such officer is superior in command to the one who confirmed such finding or sentence.

162. *Annulment of proceedings.*—The Central Government, the Commander-in-Chief or any prescribed officer may annul the proceedings of any court-martial on the ground that they are illegal or unjust.

CHAPTER XIII

Execution of Sentences

163. *Form of sentence of death.*—In awarding a sentence of death, a court-martial shall, in its discretion, direct that the offender shall suffer death by being hanged by the neck until he be dead, or shall suffer death by being shot to death.

164. *Commencement of sentence of transportation or imprisonment.*—Whenever any person is sentenced by a court-martial under this Act to transportation, imprisonment or detention the term of his sentence shall, whether it has been revised or not, be reckoned to commence on the day on which the original proceedings were signed by the president.

165. *Execution of sentence of transportation.*—Whenever any sentence of transportation is passed under this Act or whenever any sentence of death be commuted to transportation, the commanding officer of the person under sentence or such other officer as may be prescribed shall forward a warrant in the prescribed form to the officer in charge of the civil prison in which such person is to be confined and shall arrange for his despatch to such prison with the warrant.

166. *Execution of sentence of imprisonment.*—(*1*) Whenever any sentence of imprisonment is passed under this Act or whenever any sentence of death or transportation is commuted to imprisonment, the confirming officer or such other officer as may be prescribed, shall, save as otherwise provided in sub-sections (*3*) and (*4*), direct either that the sentence shall be carried out by confinement in a military or air force prison or that it shall be carried out by confinement in a civil prison.

(*2*) When a direction has been made under sub-section (*1*) the commanding officer of the person under sentence or such other officer as may be prescribed shall forward a warrant in the prescribed form to the officer in charge of the prison in which such person is to be confined and shall arrange for his despatch to such prison with the warrant.

(*3*) In the case of a sentence of imprisonment for a period not exceeding three months, the officer referred to in sub-section (*1*) may direct that the sentence shall be carried out by confinement in air force custody instead of in a civil or military or air force prison.

(*4*) On active service, a sentence of imprisonment may be carried out by confinement in such place as the officer commanding the forces in the field may from time to time appoint.

167. *Temporary custody of offender.*—Where a sentence of transportation or imprisonment is directed to be undergone in a civil prison, the offender may be kept in military or air force custody or in any other fit place, till such time as it is possible to send him to a civil prison.

168. *Execution of sentence of imprisonment in special cases.*—Whenever, in the opinion of an air or other officer commanding a group, any sentence or portion of a sentence of imprisonment cannot for special reasons, conveniently be carried out in a military or air force prison or in air force custody in accordance with the provisions of section 166 such officer may direct that such sentence or portion of sentence shall be carried out by confinement in any civil prison or other fit place.

169. *Conveyance of prisoner from place to place.*—A person under sentence of transportation or imprisonment may during his conveyance from place to place, or when on board ship, aircraft, or otherwise, be subject to such restraint as is necessary for his safe conduct and removal.

170. *Execution of sentence of detention.*—Whenever any sentence of detention is passed under this Act, or whenever any sentence of death, transportation or imprisonment is commuted to detention, the sentence shall be carried out by detaining the offender in any military or air force detention barracks, detention cells or other military or air force custody; and when the sentence is to be carried out by detention in any military or air force detention barracks, the commanding officer of the person under sentence or such other officer as

may be prescribed shall forward a warrant in the prescribed form to the officer in charge of the detention barracks in which the person under sentence is to be detained, and shall forward the person under sentence to such detention barracks with the warrant.

171. *Communication of certain orders to prison officers.*—Whenever an order if duly made under this Act setting aside or varying any sentence, order or warrant under which any person is confined in a civil, military or air force prison or detained in a military or air force detention barracks, a warrant in accordance with such order shall be forwarded by the officer making the order, or his staff officer, or such other person as may be prescribed, to the officer in charge of the prison or detention barracks in which such person is confined.

172. *Execution of sentence of fine.*—When a sentence of fine is imposed by a court-martial under section 71 whether the trial was held within India or not, a copy of such sentence, signed and certified by the confirming officer may be sent to any Magistrate in India, and such Magistrate shall thereupon cause the fine to be recovered in accordance with the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898) or any corresponding law in force in an Acceding State, for the levy of fines as if it were a sentence of fine imposed by such Magistrate.

173. *Establishment and regulation of air force prisons.*—The Central Government may set apart any building or part of a building, or any place under its control, as an air force prison or detention barracks for the confinement of persons sentenced to imprisonment or detention under this Act.

174. *Informality or error in the order or warrants.*—Whenever a person is sentenced to transportation, imprisonment or detention under this Act, and is undergoing the sentence in any place or manner in which he might be confined under a lawful order or warrant in pursuance of this Act, the confinement of such person shall not be deemed to be illegal only by reason of any informality or error in or as respects the order, warrant or other document, or the authority by which, or in pursuance whereof such person was brought into or is confined in any such place, and any such order, warrant or document may be amended accordingly.

175. *Power to make rules in respect to prisons and prisoners.*—The Central Government may make rules providing—

(*a*) for the government, management and regulation of air force prisons and detention barracks;

(*b*) for the appointment, removal and powers of inspectors, visitors, governors and officers thereof;

(*c*) for the labour of prisoners undergoing confinement therein, and for enabling such prisoners or persons to earn by special industry and good conduct, a remission of a portion of their sentence;

(*d*) for the safe custody of such prisoners or persons and the maintenance of discipline among them and the punishment, by personal correction, restraint or otherwise, of offences committed by them;

(*e*) for the application to air force prisons or detention barracks of any of the provisions of the Prisons Act, 1894 (IX of 1894), relating to the duties of officers of prisons and the punishment of persons not being prisoners.

176. *Restriction of rule-making power in respect to corporal punishment.*—Rules made under section 175 shall not authorise corporal punishment to be inflicted for any offence, nor render the imprisonment more severe than it is under any law for the time being in force relating to civil prisons in India.

CHAPTER XIV

PARDONS, REMISSIONS AND SUSPENSIONS

177. *Pardon and remission.*—When any person subject to this Act has been convicted by a court-martial of any offence, the Central Government, the Commander-in-Chief, an air or other officer commanding a group, or the prescribed officer, may—

(*a*) either with or without conditions which the person sentenced accepts, pardon the person or remit the whole or any part of the punishment awarded; or

(*b*) mitigate the punishment awarded; or

(*c*) commute such punishment for any less punishment or punishments mentioned in this Act:

Provided that a sentence of transporation shall not be commuted for a sentence of imprisonment for a term exceeding the term of transporation awarded by the court; and a sentence of imprisonment shall not be commuted for a sentence of detention for a term exceeding the term of imprisonment so awarded;

(*d*) either with or without conditions which the person sentenced accepts, release the person on parole.

178. *Cancellation of conditional pardon, release on parole or remission.*—(*1*) If any condition on which a person has been pardoned or released on parole or a punishment has been remitted is, in the opinion of the authority which granted the pardon, release or remission, not fulfilled, such authority may cancel the pardon, release or remission, and thereupon the sentence of the court shall be carried into effect as if such pardon, release or remission had not been granted.

(*2*) A person whose sentence of transportation, imprisonment or detention is carried into effect under the provisions of sub-section (*1*) shall undergo only the unexpired portion of his sentence.

179. *Reduction of warrant officer or non-commissoned officer.*—When under the provisions of section 79 a warrant officer or a non-commissioned officer is deemed to be reduced to the ranks, such reduction shall, for the purpose of section 177 be treated as a punishment awarded by a sentence of a court-martial.

180. *Suspension of sentence of transportation, imprisonment or detention.*—(*1*) Where a person subject to this Act is sentenced by a court-martial to transportation, imprisonment or detention, the Central Government, the Commander-in-Chief or any officer empowered to convene a general or a summary general court-martial may suspend the sentence whether or not the offender has already been committed to prison or to air force custody.

(*2*) The authority or officer specified in sub-section (*1*) may in the case of an offender so sentenced direct that, until the orders of such authority or officer have been obtained, the offender shall not be committed to prison or to air force custody.

(*3*) The powers conferred by sub-sections (*1*) and (*2*) may be exercised in the case of any such sentence which has been confirmed, reduced or commuted.

181. *Orders pending suspension.*—A confirming officer may, when confirming any sentence referred to in section 180, direct that the offender be not committed to prison or to air force custody until the orders of the authority or officer specified in section 180 have been obtained.

182. *Release on suspension.*—Where a sentence is suspended under section 180, the offender shall forthwith be released.

183. *Computation of period of suspension.*—Any period during which the sentence is under suspension shall be reckoned as part of the term of such sentence.

184. *Order after suspension.*—The authority or officer specified in section 180 may, at any time while a sentence is suspended, order—

(*a*) that the offender be committed to undergo the unexpired portion of the sentence, or

(*b*) that the sentence be remitted.

185. *Reconsideration of case after suspension.*—(*1*) Where a sentence has been suspended, the case may at any time, and shall at intervals of not more than four months, be reconsidered by the authority or officer specified in section 180, or by any air or other officer not below the rank of squadron leader duly authorised by the authority or officer specified in section 180.

(*2*) Where on such reconsideration by the officer so authorised it appears to him that the conduct of the offender since his conviction has been such as to justify a remission of the sentence, he shall refer the matter to the authority or officer specified in section 180.

186. *Fresh sentence after suspension.*—Where an offender, while a sentence on him is suspended under this Act, is sentenced for any other offence, then—

(*a*) if the further sentence is also suspended under this Act, the two sentences shall run concurrently;

(*b*) if the further sentence is for a period of three months or more and is not suspended under this Act, the offender shall also be committed to prison or air force custody for the unexpired portion of the previous sentence, but both sentences shall run concurrently; and

(*c*) if the further sentence is for a period of less than three months and is not suspended under this Act, the offender shall be so committed on that sentence only, and the previous sentence shall, subject to any order which may be passed under section 184 or section 185, continue to be suspended.

187. *Scope of power of suspension.*—The powers conferred by sections 180 and 184 shall be in addition to and not in derogation of, the power of mitigation, remission and commutation.

188. *Effect of suspension and remission on dismissal.*—(*1*) Where in addition to any other sentence the punishment of dismissal has been awarded by a court-martial, and such other sentence is suspended under section 180, then, such dismissal shall not take effect until so ordered by the authority or officer specified in section 180.

(*2*) If such other sentence is remitted under section 184, the punishment of dismissal shall also be remitted.

CHAPTER XV

RULES

189. *Power to make rules.*—(*1*) The Central Government may make rules for the purpose of carrying into effect the provisions of this Act.

(*2*) Without prejudice to the generality of the power conferred by sub-section (*1*), the rules made thereunder may provide for—

(*a*) the removal, retirement, release or discharge from the service of persons subject to this Act;

(*b*) the amount and incidence of fines to be imposed under section 90;

(*c*) the specification of the punishment which may be awarded as field punishments under sections 77 and 82;

(*d*) the assembly and procedure of courts of inquiry, the recording of summaries of evidence and the administration of oaths or affirmations by such courts;

(*e*) the convening and constituting of courts-martial;

(*f*) the adjournment, dissolution and sitting of courts-martial;

(*g*) the procedure to be observed in trials by courts-martial and the appearance of legal practitioners thereat;

(*h*) the confirmation, revision and annulment of, and petitions against, the findings and sentences of courts-martial;

(*i*) the carrying into effect sentences of courts-martial;

(*j*) the forms of orders to be made under the provisions of this Act relating to courts-martial, transportation, imprisonment and detention;

(*k*) the constitution of authorities to decide for what persons, to what amounts and in what manner, provision should be made for dependants under section 100 and the due carrying out of such decisions;

(*l*) the relative rank of the officers, junior commissioned officers, warrant officers, petty officers and non-commissioned officers of the regular Army, Navy and Air Force when acting together;

(*m*) any other matter directed by this Act to be prescribed.

190. *Power to make regulations.*—The Central Government may make regulations for all or any of the purposes of this Act other than those specified in section 189.

191. *Publication of rules and regulations in Gazette.*—All rules and regulations made under this Act shall be published in the official Gazette and, on such publication, shall have effect as if enacted in this Act.

192. *Repeal.*—The Indian Air Force Act, 1932 (XIV of 1932) with the exception of sections 126 to 128L thereof, is hereby repealed.

CHAPTER XVI

TRANSITORY PROVISIONS

193. *Definition of "British officer".*—(*1*) In this Chapter "British officer" means a person of non-Indian domicile holding a commission in His Majesty's Air Forces and serving in the Air Force.

(*2*) The expression "superior officer" in this Act shall be deemed to include a British officer.

194. *Powers of British officer.*—A British officer shall have all the powers conferred by this Act on an officer of corresponding rank or holding a corresponding appointment.

STATEMENT OF OBJECTS AND REASONS.

1. The Indian Air Force Act, 1932, is in large part modelled on the Indian Army Act, 1911, and departs from the latter Act principally in two Chapters, *viz.*, those on "Offences" and "Punishments". With the revision of the Indian Army Act a new Air Force Act has become inevitable and after an examination of the possibility of combining the two Acts into one it was decided that this course was not feasible but the more practicable and convenient course was to have two separate Acts but identical in their provisions with all necessary variations and adaptations of the Army Act required by the Air Force. The salient points of revision of these Acts have been set out in the Statement of Objects and Reasons to the Army Bill, 1949.

2. The opportunity afforded by a simultaneous revision of both Acts has been used to examine and, as far as possible, eliminate imparity and difference between them arising from their origin and history. Such points of difference as still remain and are not inherent in the subject-matter are those which are considered irremovable at the present stage.

3. A separate Bill is intended to take the place of sections 126 to 128L of the existing Act in regard to the property of deceased persons, deserters and lunatics and will be common to the Army and Air Force.

NEW DELHI;
The 16th December, 1949.

BALDEV SINGH.

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore